

April 17, 2000
OPINION NUMBER 2000-104

Frances Hurst, Administrator
Elections, Commissions & Publications
Secretary of State's Office
P. O. Box 94125
Baton Rouge, Louisiana 70804-9125

27 Elections Candidates, nomination & eligibility to run

R.S. 18:501(B) and 18:464(E)

The proper method to use in refunding qualifying fees in your example #1 where you refund $\frac{1}{2}$ of the qualifying fee, then you deduct any additional fees imposed by law for the final refund amount [qualifying fee $\div$ 2 = amount – additional fees = refund amount].

Dear Ms. Hurst:

We are in receipt of your request for an Attorney General's opinion regarding the refund of qualifying fees. Your letter states that your office is in the process of preparing a Notice of Candidate's Withdrawal/Removal form stating the proper procedure to be followed regarding the refund of candidate qualifying fees pursuant to La. R.S. 18:501(B) and La. R.S. 18:464(E). You seek an opinion on the following question:

Which method [example 1 or 2 for State Senator, qualifying fee of \$300] should be used to determine the exact dollar amount the office of the Secretary of State should refund to a candidate if he/she is subject to a processing fee to the clerk of court?

Example 1: $\$300 \text{ qualifying fee} \div 2 = \$150 - \$30 \text{ (clerk's fee)}$
 $= \$120 \text{ refund to candidate}$

Example 2: $\$300 \text{ qualifying fee} - \$30 \text{ (clerk's fee)} = \$270 \div 2$
 $= \$135 \text{ refund to candidate}$

La. R.S. 18:464 provides for the payment of qualifying fees, and provides in pertinent part, as follows:

A.

* * *

B. Amount of qualifying fees. The qualifying fees for candidates in primary elections are:

- (1) For state candidates -- ...
- (2) For local candidates -- ...
- (3) For municipal candidates -- ...
- (4) For candidates for membership on state central committees

...

C. Additional fees imposed by state central committees ...

- D. Additional fees imposed by parish executive committees...
- E. **Clerk's fees.** Each clerk of court may retain from the qualifying fees of each local and municipal candidate and each candidate for membership on a political party committee a fee of not more than ten percent, but not less than ten dollars, which shall be retained by the clerk and used by him to cover his office expenses for filing and recording the candidate's qualifying papers. However, the sums retained by the clerk of court shall be retained only from those qualifying fees that are remitted to the secretary of state.

* * *(Emphasis added)

La. R.S. 18:501(B) provides:

- B. Refund of qualifying fees. If the withdrawal is filed prior to the fifty-sixth day before the election, fifty percent of **the qualifying fee** paid by the candidate shall be refunded by the state treasurer from the escrow account in which these deposits were credited. If the withdrawal is filed on or after the fifty-sixth day before the election, the deposit shall not be refunded. However, if the fifty-sixth day falls on or before the seventh day following the last day for qualifying, the candidate shall have until the seventh day following the last day for qualifying to receive such a refund. (Emphasis added).

It is our opinion that the clear language of the law allows for the refund of *qualifying fees* and not additional fees imposed by the state central committees, the parish executive committees, and the clerks of court. Therefore, the proper method to use in refunding qualifying fees is your example #1 where you refund ½ of the qualifying fee, then you deduct any additional fees imposed by law for the final refund amount [qualifying fee ÷ 2 = amount – additional fees = refund amount].

We hope this opinion addresses your concerns. If we can be of further assistance, please advise.

Yours very truly,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

ANGIE ROGERS LAPLACE

RPI/ARL;cwr

Summary:

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Angie Rogers LaPlace
Assistant Attorney General