

Press Release

On Thursday, October 15, Jeff Wiita, who is a Certified Public Accountant and seeking the Republican Party endorsement for State Auditor, dropped off the following Request for a Legal Opinion to the Attorney General Office.

October 15, 2009

The Honorable Lori Swanson, Attorney General
1400 Bremer Tower
445 Minnesota Street
Saint Paul, Minnesota 55101

This is a request for a Legal Opinion on using my professional name on an election ballot in the primary and general elections.

Minnesota Statute 204B.35, Subdivision 2, states, "The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, including words descriptive to the candidate's occupation, qualifications, principles, or opinions, except as otherwise provided by law."

This statute may seem clear; however, there is solid precedence that current Minnesota election laws allow candidates to use their legal name or the name by which they are known. James Janos, for instance, was able to use Jesse Ventura on the ballot when he ran for governor; thus capitalizing on his significant fame as a professional wrestler in a Minnesota State election.

Could you please identify which statute allowed James Janos to use the name Jesse Ventura on the ballot when he ran for governor?

Related to that request, I believe that the State Auditor and Attorney General are professional office holders and not policy-making office holders. Professional office holders require professional credentials in order to perform the duties of the office. The State Auditor's Office is an extension of my profession and requires an active CPA license in order to opine on a set of financial statements. As I see it, my professional name includes the initials CPA, and I would like to use my professional name on the ballots in the primary and general elections.

Is it possible for me to use my professional name on the ballots in the primary and general elections? And, if not, could you please explain the difference between my professional name and James Janos' professional name of Jesse Ventura?

While discussing this ballot concern with the Secretary of State, it became clear that the matter would benefit from a ruling by your office. I'm requesting that you outline exactly what I need to do for my name to appear on the 2010 ballots as Jeff Wiita, CPA.

Finally, Minnesota Statute 204B.06, Subdivision 8, states, "A candidate for judicial office or for the office of county attorney shall submit with the affidavit of candidacy proof that the candidate is licensed to practice law in this state. Proof means providing a copy of a current attorney license. A candidate for county sheriff shall submit with the affidavit of candidacy proof of licensure as a peace officer in the state. Proof means providing a copy of a current Peace Officer Standards and Training Board license." There appears to be no such requirements for State Auditor or Attorney General, and the Constitution appears silent on the qualifications of members of the Executive Branch except as follows:

Article V, Sec. 2. Term of governor and lieutenant governor; qualifications.

The term of office for the governor and lieutenant governor is four years and until a successor is chosen and qualified. Each shall have attained the age of 25 years and, shall have been a bona fide resident of the state for one year next preceding his election, and shall be a citizen of the United States.

Any other qualifications for Executive Branch members would seem to have come from legislative action. There seems at least some possibility that a Constitutional amendment would not be required.

Would such requirements for State Auditor and Attorney General require a Constitutional amendment to the Minnesota Constitution or a statutory change?

Thank you for your time and consideration,

Jeff Wiita, CPA for State Auditor

<http://www.jeffforstateauditor.com/>

Prepared and paid for by Jeff Wiita, CPA for State Auditor