

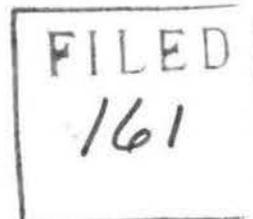
ELECTIONS:  
COUNTY CLERK:

1. The county clerk or board of election commissioners shall designate the polling places which will be used for all elections, including school elections, taking place on April 7, 1970. 2. The school board has no power to require that only one of the polling places in the school district designated pursuant to requirements of Section 111.111 will be used for voting on school issues. 3. The county clerk or board of election commissioners shall designate the judges and clerks in each polling place. 4. The judges and clerks designated by the county clerk or board of election commissioners pursuant to paragraph 2 of Section 111.111 shall conduct the election of April 7, 1970 for all subdivisions involved. 5. The school district has no power to designate polling places in the rural areas of the school districts in addition to those designated pursuant to paragraph 1 of Section 111.111.

OPINION NO. 161

March 4, 1970

Honorable Floyd E. Lawson  
Prosecuting Attorney  
Monroe County Court House  
Paris, Missouri 65275



Dear Mr. Lawson:

This letter is in response to your request for the official opinion of this office on a number of questions pertaining to recently enacted election laws. Specifically, your questions were as follows:

"The Superintendent of Schools of the Paris R-II School District has come to me with some questions with regard to a conflict in the general election statutes as set out in Chapter 111, RSMo, 1959, as amended, and Chapter 162, which governs the elections in school districts.

"The Superintendent has these specific questions:

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"1. Is it mandatory that the school district designate the City polling places as polling places for the school election?

"2. If the answer to question 1 is affirmative, must the school district provide ballots at each of the City precincts or designate only one of them to vote on school issues?

"3. If the answer to question 1 is affirmative, who selects the judges and clerks?

"4. Assuming the answer to question 1 is affirmative, does the school district provide separate judges and clerks at the voting precincts or does one set of judges and clerks serve in dual capacities for city and school?

"5. May the school district continue to provide polling places in the rural areas of the school district?"

After you wrote your opinion request, the legislature designated April 7, 1970 as the date for a statewide special election on the income tax bill. Therefore, after consulting with you over the telephone, we have taken the liberty of revising, somewhat, your opinion request to make it applicable to this changed situation.

Before answering your questions numbered 1 through 5, we must determine whether the elections to be held on April 7, 1970, are governed by Section 111.111 V.A.M.S. (1969-70 Supp.) or paragraph 1 of Section 162.371 V.A.M.S. (1969-70 Supp.).

Section 111.111 reads as follows:

"1. Notwithstanding any other provisions of law, whenever any general, primary or special election and elections held by a school, fire or sewer district, municipality or other political subdivision are held on the same day, the county clerk, board of election commissioners or other official having authority over general elections, shall designate one polling place for the

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several elections in each precinct or district in the political subdivision in which the elections are held.

"2. The county clerk, board of election commissioners or other proper official shall designate the election officials in each polling place who shall conduct the election for all subdivisions involved.

"3. Any person failing or refusing to comply with the provisions of this section is guilty of a misdemeanor."

Paragraph 1 of Section 162.371 provides:

"All elections in six-director districts shall be by ballot, except that the board may direct the use of voting machines in any or all precincts at an election when the machines are available. Convenient polling places within the district shall be designated by the board for all elections. If there is more than one incorporated city or town within the school district, there shall be at least one polling place in each city or town. When a district includes any city, incorporated town or other political subdivision which holds an election on the same day on which the school election is held, the county clerk, board of election commissioners or other official having authority over general elections in the city, town, political subdivision and school district shall, whenever feasible, designate one polling place for both the school district and the city, town or political subdivision election in each precinct or district within the city, town or political subdivision and shall designate the election officials in each precinct who shall conduct the election for all subdivisions involved. The board of education shall designate

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polling places for voters who reside outside the corporate limits of cities, towns or other political subdivisions which hold elections at the same time as school elections."

Section 111.111 is specifically applicable to the situation where a statewide special election and elections held by other political subdivisions are being held on the same day. On the other hand, paragraph 1 of Section 162.371 applies when a school district holds its election on the same day as general elections in the city, town or other political subdivision included within the school district. It is the opinion of this office that Section 111.111 is by its terms the statute which pertains to the situation which exists on April 7, 1970 i.e. where a special statewide election is being held at the same time as elections in local political subdivisions. Where applicable to an election situation, Section 111.111 must apply "[n]otwithstanding any other provisions of law . . . ." Therefore, we conclude that where the provisions of Section 162.371 conflict with Section 111.111, the latter section controls on April 7, 1970.

Having determined that Section 111.111 is the controlling statute for the election on April 7, 1970, we now turn to the five questions about which you inquire.

1.

When Section 111.111 applies, "the county clerk, board of election commissioners or other official having authority over general elections shall designate one polling place for the several elections. . . ." Based on this language, we conclude that the official in your county having authority over general elections is required by this statute to designate the polling places which will be used jointly by all political subdivisions holding elections on April 7, 1970.

2.

We interpret this question to be whether, after the proper official has designated the polling places, the school district can then designate only one of these polling places within the confines of the school district as the place at which school issues will be voted upon. We see no justification for such an interpretation of Section 111.111. We believe that the primary objective of the legislature in enacting Section 111.111 was to prevent a voter from having to go to a number of polling places on election day to vote on all of the propositions presented by the state and political subdivisions in which he lives. To achieve this purpose, the legislature has

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directed that a voter need only go to one polling place to cast all ballots to which he is entitled. To permit a school district to designate as polling places for school matters only certain of the polling places chosen by the official having authority over general elections would, in the opinion of this office, be contrary to the intention of Section 111.111. The authority granted to the school board in Section 162.371 to choose polling places for school elections conflicts with the terms of Section 111.111. As previously demonstrated, Section 111.111 controls the situation on April 7, 1970. Therefore, we conclude a school board may not designate as polling places for the school election to be held on April 7, 1970, only certain of the polling places designated in the school district by the proper official under Section 111.111.

3.

Paragraph 2 of Section 111.111 grants to the "county clerk, board of election commissioners or other proper official" the power to designate the election officials in each polling place "who shall conduct the election for all subdivisions involved". Therefore, the official designated under Section 111.111 should select the judges and clerks for each polling place designated by him.

4.

Paragraph 2 of Section 111.111 provides that the election officials appointed by the official having authority over general elections, "shall conduct the election for all subdivisions involved". Therefore, it is the opinion of this office that the election officials appointed by the county clerk, board of election commissioners or other proper official shall conduct the election for all subdivisions holding elections on April 7, 1970.

5.

Section 111.111 provides that the county clerk, board of election commissioners or other official having authority over general elections shall designate one polling place for the several elections in "each precinct or district in the political subdivision in which the elections are held". Therefore, we believe that it is the duty of the officials named in the first paragraph of Section 111.111 to comply with this direction and that the school district has no authority to designate additional polling places.

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CONCLUSION

It is the conclusion of this office that the election to be held on April 7, 1970, is governed by the provisions of Section 111.111 V.A.M.S. (1969-70 Supp.) rather than the provisions of Section 162.371 V.A.M.S. (1969-70 Supp.) insofar as these sections conflict.

Furthermore, it is the opinion of this office that pursuant to the requirements of Section 111.111:

1. The county clerk or board of election commissioners shall designate the polling places which will be used for all elections, including school elections, taking place on April 7, 1970.

2. The school board has no power to require that only one of the polling places in the school district designated pursuant to requirements of Section 111.111 will be used for voting on school issues.

3. The county clerk or board of election commissioners shall designate the judges and clerks in each polling place.

4. The judges and clerks designated by the county clerk or board of election commissioners pursuant to paragraph 2 of Section 111.111 shall conduct the election on April 7, 1970 for all subdivisions involved.

5. The school district has no power to designate polling places in the rural areas of the school district in addition to those designated pursuant to paragraph 1 of section 111.111.

The foregoing opinion, which I hereby approve, was prepared by my assistant, D. Brook Bartlett.

Yours very truly,



JOHN C. DANFORTH  
Attorney General