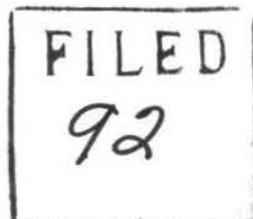


March 29, 1974

OPINION LETTER NO. 92
Answer by Letter - Vodra

Dr. Arthur L. Mallory
Commissioner of Education
Department of Education
Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Dr. Mallory:

This letter is in response to your request for a ruling on the following questions:

"1. Does the election of county school board members as provided in Section 162.111, RSMo, constitute a separate election, or is this action merely another proposition to be placed before the voters at the annual school election?"

"2. Is it mandatory that voting precincts be established in every township wholly or partially within a school district when the only questions or propositions before the voters at elections held on the first Tuesday in April are the election of district board members and county board members?"

I.

Section 162.111, RSMo 1969, includes the following language:

"1. There is created in each second, third and fourth class county in this state a county board of education whose members shall be elected by popular vote at the annual school election held on the first Tuesday in April

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in each year. Each member shall be a citizen of the United States and of the state of Missouri; a resident householder and voter of the county, and shall be not less than twenty-four years of age. Nominations for board members shall be filed with the secretary of the county board of education at least thirty days before the election. The county board of education shall prepare ballots and publish notice for such election in the same manner as for boards of education in school districts."

Since the members of a county board are to be "elected . . . at the annual school election," we believe that their election is simply part of the annual school election and does not constitute a separate or special election.

II.

From your opinion request we understand that you are concerned with counties which do not have boards of election commissioners. The establishment of voting precincts for all elections in all parts of Missouri which do not have boards of election commissioners is now controlled by House Bills Nos. 20, 71, 94 and 97, 77th General Assembly, First Regular Session (1973), codified in Chapter 114, V.A.M.S. Section 114.116 provides election precincts to be set in each county, and subsection 2 of Section 114.116 states that:

"2. No election precinct established in any city, town or village, which for municipal election purposes is subject to the provisions of sections 114.011 to 114.146, shall encompass territory outside the corporate limits of the city, town or village, nor shall such precinct encompass territory in more than one county."

Further, Section 111.091, RSMo 1969, specifically permits election districts or precincts which include parts of two townships (but not two entire townships - see Opinion 115, Weybrew, February 11, 1971, copy enclosed). Section 111.091 reads as follows:

"The county courts of the several counties in this state may divide any township in

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their respective counties into two or more election districts, or may establish two or more election precincts in any township or may establish election districts which consist of contiguous portions of two adjoining townships, and may alter such election districts and precincts, from time to time, as the convenience of the inhabitants may require"

Therefore, we conclude that it is not necessary that voting precincts be established in each township for school elections, so long as the precinct boundaries are otherwise in conformity with law.

It should be noted that the choice of polling places outside of cities and towns which are also holding elections the same day remains under the direction of the school districts which conduct the election. Sections 114.121, 114.136 and 162.371, V.A.M.S. Since this is a regular and not a special election, however, the district may not consolidate precincts pursuant to Section 162.381, RSMo 1969. Rather, there must be one polling place in each precinct.

It is, therefore, our view that (1) the election of county school board members is part of the annual school election and is not a separate election, and (2) counties governed by Chapter 114, V.A.M.S. (House Bill No. 20, 77th General Assembly, (1973)), need not have a voting precinct in each township for school elections, so long as there is a polling place in each precinct.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 115
2/11/71, Weybrew