

FIRE PROTECTION DISTRICTS: Vacancies on boards for fire protection
VACANCY: districts are to be filled by remaining board
VACANCY IN OFFICE: members who have been elected, unless there

are less than two elected members, in which instance the vacancy is to be filled by the circuit court.

March 22, 2000

OPINION NO. 89-2000

The Honorable Jim Kreider
Representative, District 142
State Capitol Building
Room 301
Jefferson City, MO 65101

Dear Representative Kreider:

You have asked this office the following questions:

Pursuant to section 321.200.2, RSMo, are appointed members of a board permitted by law to fill a vacancy?

Does section 321.200.2 RSMo limit the members of a board who shall participate in filling a vacancy on said board to only those members of the board who have been elected by a vote of the people (if the number of board members shall not be less than two and to the circuit court if number of said board members shall be greater than one)?

Section 321.200.2 RSMo 1994 provides that "Any vacancy on the board shall be filled by the remaining elected members of the board, except when less than two elected members remain on the board any vacancy shall be filled by the circuit court of the county in which all or a majority of the district lies."

Rules of statutory construction includes giving force and meaning to every word in a statute, if at all possible. Union Elec. Co. v. Morris, 222 S.W.2d 767, 359 Mo. 564 (Mo. 1949). Words are to be given their ordinary meaning. U.S. v. Jones, F.2d 444 (8th Cir. 1987).

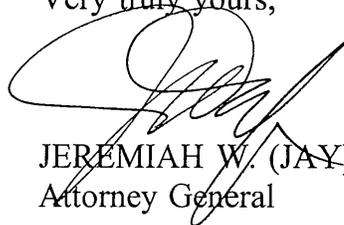
"Elect" is defined as "to select by vote for an office." The American Heritage Dictionary, page 592.

The phrase "members of the board" is modified by the word "elected." Prior to 1981 the statute provided that "Any vacancy on the board shall be filed by the remaining member or members of the board." Section 321.200 RSMo 1978. In 1981 the adjective "elected" was added to the statute modifying "members." It is a tenet of statutory construction that a change in a statute is to be given some effect. State ex rel. Thompsen-Stearns-Roger v. Schaffner, 489 S.W.2d 207, 212 (Mo. 1973). To give meaning to the word "elected" in this context requires a construction that distinguishes those board members who are elected from those appointed.

CONCLUSION

In conclusion it is this office's opinion that in applying these rules of statutory construction and the definition of "elect," that vacancies on boards for fire protection districts are to be filled by remaining board members who have been elected, unless there are less than two elected members, in which instance the vacancy is to be filled by the circuit court.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General