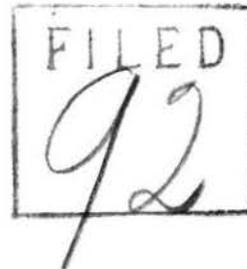


CITIES, TOWNS & VILLAGES: Under Section 7030 R. S. 1929.
Bond issue under Section 7030, R. S. 1929,
for construction of waterworks carried by
two-thirds vote of those voting at election
held for that purpose.

October 10, 1934.

10-19



Hon. J. C. Turk
Assistant Prosecuting Attorney
Lawrence County
Mt. Vernon, Missouri

Dear Mr. Turk:

This Department acknowledges receipt of your letter of
September 28th, 1934, with request for an opinion, which letter
is as follows:

"Section number 7030, Bonds May be Issued
For What Purposes, relating to cities of
the fourth class, we are asked for its
construction. That is, especially the
following clause thereof, to-wit: "But
bonds for the purpose aforesaid shall not
be issued until two-thirds (2/3) of the
legal voters of such city, voting at an
election held for that purpose, have assent-
ed thereto, in accordance with article 10,
Chapter 38, R. S. 1929."

The city of Miller presents this question to
us, is the required vote to legally authorize
the city to issue bonds for construction of
waterworks for the city, two-thirds of all
legal voters of city, or two-thirds, simply,
of the legal voters voting at the election
called for that purpose, vote therefor.

Before going on record, we desire your
opinion to the end, we may be sure we proper-
ly reflect your construction of this vote
as well as to have the benefit of same our-
selves in this office. Thanking you for
reply by early mail as parties are in waiting
to know, at once, in order to get about the
business of building this plant."

Your request calls for a construction of Section 7030, R. S. Mo. 1929, which section is as follows:

"Bonds may be issued for erection or purchase of public buildings, bridges, waterworks, electric light plants and ice plants, public parks, and other improvements, and for establishing and maintaining a fire department. The board of aldermen shall have power to borrow money and issue bonds for the payment thereof, within the limits prescribed by the Constitution, for the purpose of erecting waterworks, electric light works, public parks and ice plants, or acquire the same by purchase; also a city hall and other public buildings and improvements and for furnishing the same, and for the erection of public bridges across streams dividing counties, if located within one mile of its corporate limits, the expense of building said bridges to be borne in part by the counties, as provided for by section 7903, R. S. 1929, but bonds for the purpose aforesaid shall not be issued until two-thirds ($\frac{2}{3}$) of the legal voters of such city, voting at an election held for that purpose, have assented thereto, in accordance with article 10, chapter 38, R. S. 1929."

We have underscored the portion of said section pertinent to your inquiry.

Your question is whether or not the city of Miller, a city of the fourth class, in voting to issue bonds for the construction of water works for the city, to issue said bonds it requires two-thirds of all legal voters of said city or whether it requires only two-thirds of the legal voters voting at the election called for that purpose.

October 10, 1934.

It will be noted that Section 9382, R. S. Mo. 1909, was amended by Laws of 1915, page 361, by inserting between the word "city" and the word "have" in the eleventh line of said section the words "voting at an election held for that purpose", which words were carried into the revisions of 1919 and 1929, so that said section stands as set forth above.

In the case of Bauch v. City of Cabool, 165 Mo. App. 486, decided by the Springfield Court of Appeals, the court held that it required a vote of two-thirds of the legal voters of a city of the fourth class to assent to the issuance of bonds for the purpose of erecting waterworks, and not merely two-thirds of those voting at the election. This decision, however, was rendered in 1912 and, of course, prior to the amendment of 1915 in which the words "voting at an election held for that purpose" were added.

Section 7030, R. S. Mo. 1929, as it now stands, is plain and unambiguous and provides that bonds for the construction of waterworks etc., "shall not be issued until two-thirds of the legal voters of such city, voting at an election held for that purpose, have assented thereto, in accordance with article 10, chapter 38, R. S. 1929."

CONCLUSION.

It is, therefore, our opinion that to authorize a city of the fourth class to issue bonds for construction of waterworks it is only necessary that two-thirds of the legal voters of such city, voting at an election held for that purpose, have assented thereto, and that two-thirds of the legal voters of said city is not required.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY MCKITTRICK
Attorney-General.