

ROAD DISTRICT: A voter on the submission of the adoption of a special road district need not be a taxpayer, but should be qualified under the general election laws.

March 27, 1939

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Hon. Edward V. Long
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Bowling Green, Missouri



Dear Sir:

We are in receipt of your request for an opinion, under date of March 15th, 1939, which reads as follows:

"Please give me a ruling as to what constitutes a qualified voter who would be entitled to vote in the election set forth in Chapter 42, Article 9, Section 8055, Revised Statutes of Missouri, 1929."

Section 8055, R. S. Missouri, 1929, in reference to the qualification of the voters in adopting a special road district, has not been passed on by the Supreme Court of this state. Part of Section 8055, R. S. Missouri, 1929, reads as follows:

"Whenever fifty qualified voters, who are resident taxpayers of any such proposed special road district, shall file a petition with the county court of any county, asking the court to submit this article to a vote of the people of such proposed road district for their adoption, the county court of such county shall make an order of record that this article,

describing the same by its title and the date of its approval, be submitted to the voters of such proposed road district at the next general election, or at a special election to be held for that purpose at such time as the court may order."

It will be noticed by the above partial section that the intention of the Legislature was that in order to submit to a special election on the adoption of a special road district, it would be necessary that fifty resident taxpayers shall file a petition. The purpose of mentioning resident taxpayers was to prohibit fifty persons who were not taxpayers of the special road district to file a petition for the submission of the proposal, which would be no extra costs to such persons. But, under the partial section it will be noticed that the Legislature used the phrase, "vote of the people of such proposed district for their adoption." Under this phrase it did not specifically state a vote by the taxpayers of such special proposed road district. It is also noticed that the Legislature in enacting the section as above partially set out stated, "be submitted to the voters of such proposed road district at the next general election, or at a special election." This part of the section did not specifically say that the proposal should be submitted to the tax-paying voters of such proposed road district. This partial section does not seem to be ambiguous in any respect unless one can say that in view of the fact that the Legislature required fifty taxpayers to file a petition, then only taxpayers could vote on the proposal after the filing of the petition. The wording does not seem to be ambiguous and should be construed according to the common and known meaning of the words "voters" and "vote of the people".

In 59 C. J., page 952, it is said:

"The intention of the legislature is to be obtained primarily from the language used in the statute. The court must impartially and without bias review the written words of the act, being aided in their interpretation by the canons of construction. Where the language of a statute is plain and unambiguous, there is no occasion for construction, even though other meanings could be found; and the court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning," citing *Cendron v. Dwight Chapin & Co.*, (App.) 37 S. W. (2d) 486; *Betz v. Kansas City So. R. Co.*, 284 S. W. 455, 314 Mo. 390; *Grier v. Kansas City, C. C. & St. J. Ry. Co.*, 228 S. W. 454, 286 Mo. 523."

In *Betz v. Columbia Telephone Co.*, (App.) 24 S. W. (2d) 224, the Court said:

"To get at the true meaning of the language of the statute the court must look at the whole purpose of the act, the law as it was before the enactment, and the change in the law intended to be made."

In the case of *State ex rel Little Prairie Special Road District, v. Thompson, State Auditor*, 285 S. W. 57, the court, in a mandamus proceeding in which it ordered the registration of bonds voted by a special road district, by the State Auditor,

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said:

"Said article was adopted by the people of said district at an election duly called for that purpose by the county court, ***"

It will be noticed by the above decision that the court said: "said article was adopted by the people of said district, * * * ". It did not say that the article was adopted by the taxpayers of said district.

CONCLUSION.

In view of the above authorities it is the opinion of this department that a voter, in order to be qualified to vote in an election as set forth in Chapter 42, Article 9, Section 8055, R. S. Missouri, 1929, need not be a taxpayer, but his qualifications should only comply with the voter of a general or special election.

Respectfully submitted,

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WJB:RW

APPROVED:

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