

SCHOOLS: Proposition for change of site of common school
district schoolhouse may be submitted at an
CHANGE OF SITE: annual or special meeting.

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59

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copy to Mr. [unclear]

Honorable L. Clark McNeill
Prosecuting Attorney
Dent County
Salem, Missouri

Dear Sir:

This is in reply to your letter of recent date wherein you submit the following statement of facts and request an opinion on same:

"The Board of Directors of a common school district in this County desire to hold a special meeting to vote bonds to build a new school house and change the site from the old location to a new location.

"In checking the statute, Section 10419 authorizes, under paragraph 11, a change of location of site at the annual meeting and I have been unable to find any authority to vote on the change of a site except at an annual meeting, although bonds can be voted at a special meeting."

Section 10419, R. S. Mo. 1939, referred to in your request, was repealed and reenacted in 1945, Laws of Missouri 1945, page 1632. This section, as repealed and reenacted, insofar as it applies to your inquiry, provides as follows:

"The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast:

* * * * *

"Eleventh--To change the location of the schoolhouse site, when the same for any cause is deemed necessary, the vote required therefor to be as follows: to remove the site nearer the center of the district, a majority of the qualified

voters voting thereon; to remove the site farther from the center of the district, two-thirds of the qualified voters voting thereon."

This section relates to the powers and duties of the voters of the common school district at an annual school meeting.

Your question is: "Can a proposition to change the schoolhouse site in a common school district be submitted at any meeting other than the annual meeting?" Section 10361, R. S. Mo. 1939, which relates to special meetings of all classes of schools, provides as follows:

"Special school meetings for the transaction of business authorized by this chapter, and not restricted to the annual meeting or otherwise provided for, shall be called by the board when a majority of the qualified voters of the district sign a petition requesting the same, and designating therein the purpose for which said meeting is desired. Upon the reception of such petition, the board shall call said special meeting, by notices thereof to be given in the same manner as is provided in section 10418; and when assembled, the meeting shall be organized by the election of a chairman and a secretary, who shall keep a correct record of the transactions of the meeting, said record to be signed by the secretary, attested by the chairman, and filed with the district clerk, who shall enter the same upon the records of the district; but said meeting shall have no power to act upon any proposition not contained in the petition and submitted in the notices."

It will be noted from this section that any business of the district may be conducted at this meeting if such business is authorized by Chapter 72, R. S. Mo. 1939, and which is not restricted to the annual meeting or otherwise provided. Then the answer to your question would depend upon whether or not the proposition to change the schoolhouse site is restricted

to the annual meeting or whether or not provisions for the change of the site is otherwise provided for. Since Sections 10361 and 10419, hereinbefore referred to, are in the same chapter, to wit: Chapter 72, R. S. Mo. 1939, there would be no prohibition on submitting such proposition at the special meeting on account of said Section 10419 being in another chapter.

In searching through the statutes relative to laws applicable to common schools, we fail to find where the proposition to change the site of a school building is restricted to the annual meeting. The selection of the directors of a common school district is business which is restricted to the annual meeting. The determination by ballot of the length of the school term in excess of eight months for the ensuing school year would be business restricted to the annual school meeting. In the case of State vs. McKown, 290 S. W. 123, the court, in discussing the powers and duties of a common school district at the first annual meeting, said at l.c. 129:

"The powers with which the qualified voters of a common school district are invested at the first annual meeting, while not separately defined, are in no wise different from those conferred upon the voters at any annual meeting by section 11210, except as stated in section 11213, concerning the election of the first board of directors, as at bar, when three are to be elected for one, two, and three years, instead of one for three years."

In discussing the rules applicable to the construction of statutes relating to schools, the court further said:

" * * * The object and purpose of the organization of this district was beneficent, in that it afforded added facilities for the education of the children residing therein. We have uniformly held that statutes in regard to the public school system, having to do with the creation and the conduct of the business of country districts should be liberally construed to effect the purpose for which they were

enacted. Formed and conducted as they are by ordinary citizens, not learned in the law, any other construction would tend to defeat the purpose, and lessen the educational advantages, of such districts.* * "

Section 10348, R. S. Mo. 1939, which relates to the condemnation of land for school sites provides that whenever any school district shall select at the annual or any special meeting one or more sites for one or more schoolhouses that such board, if necessary, may condemn lands for such purposes. The foregoing statement which is underscored would indicate that the Legislators had construed the foregoing statutes to mean that school sites might be selected at annual or special meetings. That conclusion supports our conclusion that the question of the removal of a site of a school building may be submitted at an annual or special meeting. In our research on this question, we fail to find where it has been before the courts of this state. However, from a review of all the statutes pertinent to the subject, we are of the opinion that such a proposition may be submitted at a special meeting under the provisions and proceedings provided for in said Section 10361, supra.

CONCLUSION

From the foregoing, it is the opinion of this department that the proposition for change of a school site in a common school district may be submitted at an annual or special meeting.

Respectfully submitted,

TYRE W. EURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

TWB:VLM