

COUNTIES: Election called within the county to establish a public
ELECTIONS: county health center under House Bill 280, Laws of Mo.
1945, page 1969, must be held at the usual voting places
in the county for voting upon county officers.

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February 10, 1949

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Honorable Roderic R. Ashby
Prosecuting Attorney
Charleston, Missouri

Dear Mr. Ashby:

We have your two communications of recent dates in which you request an opinion from this department touching the facts outlined by you in the following language:

"A special election has been called in our County on the County Health Unit proposition. The election has been called for April 5, 1949, which is the date of the school election. Your office has heretofore advised us that it will be necessary to have the polls open all during the day rather than just part of the day as is ordinarily done at a school election.

"We would like to know whether or not the County Court can order that the special election be held at the polling places where the school elections are being held. In other words, ordinarily we would have precincts in the various townships, but the school elections will be held at each school and we would like to know whether or not at such a special election the County Court would have authority to designate those school houses as voting precincts, and have the election held at those polling places. We can see no reason why the polling places which are used at a general election should be necessary at this special election, and would much prefer to use the school houses where the school elections are being held."

"Supplementing my letter of January 29, 1949, be advised that the Mississippi County Public Health Unit is one organized under House Bill 280 being passed in 1946 and being part of the Laws of

Missouri, 1945 at page 969."

Your request presents the single question: May the county court of Mississippi County, Missouri, having heretofore called a special election to be held on April 5, 1949, pursuant to authority contained in House Bill 280, Laws of Mo. 1945, page 969, order that polling precincts to be used in such public election be those which are to be in use on said date for the annual elections in such counties?

The Act we are construing is House Bill No. 280, enacted by the 63rd General Assembly, Laws of Mo. 1945, page 969. Section 1 of this Act provides:

"Any county or group of counties, subject to provisions of the Constitution of the State of Missouri, may establish, maintain and manage and operate a public county health center in the following manner: Whenever the county court or courts shall be presented with a petition signed by ten per cent or more of the qualified voters in the county or counties affected as determined by the number of votes cast for governor at the preceding general election, asking that an annual tax be levied for the establishment, building, maintaining of a public health center and the maintenance of such personnel as may be needed for the operation of such center and shall specify in their petition, the maximum amount of money proposed for said purposes, such county court or courts shall submit the question to the qualified voters of the county or counties at the next general election to be held in the county or counties or at a special election called for that purpose, first giving ninety days' notice thereof in one or more newspapers published in the county or counties, if any be so published, and if not so published, by posting written or printed notices in each township of the county or counties, which notice shall include the text of the petition and state the amount of the tax to be levied upon the assessed property of said county or counties, which tax shall not exceed one (1) mill on the dollar, for a period of time not exceeding twenty years, and be for the issue of county bonds to provide funds for the purchase of a site or sites, the erection

thereon of a public health center and for the support of the same including necessary personnel; which said election shall be held at the usual voting places in the county or counties for voting upon county officers, and shall be canvassed in the same manner as the vote for county officers is canvassed.
(Underscoring ours.)

Language contained in the underscored lines of the above quoted section makes it mandatory that the called election be held in the usual voting places used in the county in voting upon county officers. Permissive language is not used in the section and the clear import of the language is not to be disregarded. It is not necessary in this instance to bring into play technical rules for the interpretation of statutes. We think the language of this section quoted above is plain and unambiguous and the intent of the Legislature is clearly evident touching the places where the election will be held.

CONCLUSION

It is the opinion of this department that an election duly called pursuant to authority contained in House Bill 280, Laws Missouri 1945, page 969, must be held in the polling precincts which constitute the usual voting places in the county for voting upon county officers, and such polling precincts may not be restricted to those being used within the county on the day prescribed for holding of annual school elections.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:

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