

ELECTION
BOARD OF ELECTION
COMMISSIONERS,
KANSAS CITY,
MISSOURI:

Board of Election Commissioners of city of
300,000 to 700,000 may consolidate two or more
precincts, dispense with clerk's canvass and
the printing of registration lists for special
referendum election April 4, 1950.

February 18, 1950

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Board of Election Commissioners
Kansas City, Missouri

Attention Mr. Elmo B. Hunter and Mr. W. Raymond Hedrick,
Attorneys

Gentlemen:

This is in answer to your letter of recent date request-
ing an official opinion of this office, reading as follows:

"The Board of Election Commissioners of
Kansas City, Missouri request an opinion
on the following questions under Section
12097 A, general laws regulating elections,
Chapter 76, Article 23, Election Laws,
State of Missouri, as revised for 1947-
1948.

"1. Can the Board of Election Commissioners
legally consolidate two or more precincts
and use one set of judges and clerks in such
consolidated voting area, and dispense with
a clerk canvass and the printing of regis-
tration lists for the special constitutional
amendment election to be held April 4, 1950
concerning the proposed increase in the
gasoline tax?"

We call your attention to the fact that the election to
be held April 4, 1950, is not a special constitutional amend-
ment election, but is a special election for referring to the
people for their approval or rejection House Committee Sub-
stitute for House Bill No. 185, passed by the 65th General
Assembly.

Section 12097(A), Laws of Missouri, 1943, page 542, which
section is applicable to cities having a population of not less
than 300,000 nor more than 700,000 inhabitants, provides as
follows:

"The Board of Election Commissioners, in
addition to all other powers conferred upon
it by this Article, shall have the power
and authority, in its discretion, in any
special constitutional election for the
election of delegates to a constitutional

Board of Election Commissioners

convention, or any election called for the purpose of submitting the issue of adoption of a Constitutional Amendment or Amendments, to consolidate two or more precincts, and to use one set of judges and clerks in such consolidated voting area and to dispense with a clerks' canvass and the printing of registration lists for such special election, and the Board of Election Commissioners shall have the power and authority to substitute the last printed registration list, corrected to the final date of registration and transfer for such special election, for the registers at any polling place, providing that following any such election in which such registration lists are so substituted, the Board of Election Commissioners shall cause the voting record of all persons voting in such election to be entered upon the registration affidavits of all such persons."

In a previous opinion to you, rendered under date of January 18, 1950, we held that such section constituted the general law relating to submission of constitutional amendments for a special election and that such section was applicable to the special referendum election to be held April 4, 1950. Such opinion had reference to the question of whether or not a clerk's canvass was necessary preceding such election. This conclusion was arrived at on the authority of the case of State ex rel. v. Westhues, 9 S.W. (2d), at 612, a portion of which opinion we quoted in our opinion to you of January 18, 1950. Under the holding in the Westhues case we believe that all the provisions contained in Section 12097(A), supra, are applicable to the special referendum election to be held April 4, 1950.

Section 12101, Laws of Missouri, 1943, page 556, provides as follows:

"Said board of election commissioners shall not later than six months after the selection and qualification of each succeeding board of election commissioners thereafter, select and choose four registered voters as judges of election for each precinct in such city. They must be registered voters in the city at the next election, and they must be men or women of good repute and character who can speak, read and write the

Board of Election Commissioners

English language and be skilled in the four fundamental rules of arithmetic, and they must be of good understanding and capable. They must either reside or be employed or have a place of business in the ward for which they are selected to act; and they must not hold any office or employment under the United States, the State of Missouri, or under the county or city in which such election is to be held, and they must not be candidates for any office at the next ensuing election. Two clerks of election for each precinct shall be selected within the same time by said board, and shall possess the same qualifications as the judges. Being a notary public shall be no disqualification for judge or clerk. No person shall be appointed nor serve as judge or clerk in any election or registration who has been convicted of an offense punishable by imprisonment in the penitentiary, or who has been confined in any county jail, workhouse, penitentiary or house of correction under sentence within five years prior to such appointment. Said judges and clerks shall be appointed for a term ending sixty days after the next presidential election after the election at which they were appointed to serve, and shall, during said term, and until their successors shall be selected and qualified, serve as judges and clerks at all special, local, municipal, primary and general elections, and the terms of all judges and clerks now regularly appointed, serving and acting shall be extended for a term ending sixty days after the presidential election in the year 1944, or until their successors shall be selected and qualified. The board shall have power at any time in the event of the death, disqualification, resignation, removal for cause, inability, refusal or incapacity of any regularly commissioned judge or clerk to act, to fill any such vacancy by the temporary appointment or by the appointment for the unexpired term of a person possessing the same qualifications required for regular appointment without publication."

Board of Election Commissioners

We believe that the reference in Section 12101, supra, providing that the judges and clerks shall serve at all special, local, municipal, primary and general elections, means that only those persons appointed by the Board as judges and clerks shall serve at any election and that no special judges or clerks are to be appointed for any particular election.

We do not believe there is any conflict between Sections 12101 and 12097(A) insofar as Section 12097(A) provides for the consolidation of precincts at special elections where issues are to be voted on. We therefore believe that Section 12097(A) constitutes the general law with regard to special elections at which a question is to be voted on and that such section applies to the special referendum election to be held April 4, 1950.

CONCLUSION

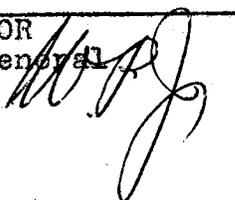
It is the opinion of this department that the Board of Election Commissioners of Kansas City may consolidate two or more precincts and use one set of judges and clerks in such consolidated voting area, and dispense with the clerk's canvass and the printing of registration lists for the special referendum election to be held April 4, 1950.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General



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