

MISSOURI STATE SOIL
DISTRICTS COMMISSION:

The official rules and procedures for fair and impartial referendums on the establishing of soil districts and a selection of soil district supervisors that have been submitted to this department should be and are hereby approved, subject to the modifications and recommendations suggested herein.

February 17, 1950

Missouri State Soil Districts Commission
Columbia, Missouri



Gentlemen:

We have been requested by you to give our official opinion regarding the official rules and procedures for fair and impartial referendums on the establishing of soil districts and the selection of soil district supervisors, and to make changes and modifications in the same which we might deem advisable. Your copy of said official rules and procedures that was submitted to us is as follows:

OFFICIAL RULES AND PROCEDURES
FOR FAIR AND IMPARTIAL REFERENDUMS
ON THE ESTABLISHING OF SOIL DISTRICTS
AND THE SELECTION OF SOIL DISTRICT
SUPERVISORS.

(Issued by State Soil Districts Commission)
Columbia, Mo., March 19, 1949.

Local Committee and Judges--Read Carefully.

1. Provide sealed ballot boxes and open polls promptly at time advertised. The ballot boxes must be substantially constructed, securely locked and left locked throughout the referendum.
2. Furnish official ballots (suggested form is attached) in sealed packages stating the number included. Ballots not used should be returned to the Organization Committee in the county agent's office in a separate package. The sum of those used and returned unused should equal the total number received.
3. Only one vote is allowed per farm either by the owner, or his legal representative. The interpretation by the State Soil Districts Commission of what constitutes a farm is the same as the interpretation of the AAA, now PMA. A tract of land must be operated as an independent farm enterprise to

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entitle its land representative to a single vote. Two or more tracts of land that are operated by one management as an independent farm enterprise will be entitled to one vote. The size of each farm must be at least 3 acres or more. The latest information available from local PMA committees relative to the total number of farms within the proposed soil district will be used by the State Commission in their determination of whether or not a substantial expression has been demonstrated, as required by law.

4. Each farm owner personally may cast as many votes in the soil district referendum and election of supervisors as he owns independently operated farms. (See paragraph 3 for definition of a farm) If it is impossible for the landowner to personally cast his eligible vote or votes because of absentee landownership, or sickness, or for any other reason, over which he has no control, the soil districts law provides that he may give a power of attorney to a taxpayer residing within the county to represent him in this referendum and election of supervisors. It is the policy of the Commission to require that such a taxpayer not be a legal land representative for more than one land owner, unless such legal representation has been established previously by reason of professional or paid farm managership. In addition, it is recommended that this taxpayer, given a power of attorney, be an individual who has something to say about the operation of the farm or farms throughout the year, and who would be in a position to work with the soil district if established. Acquisition by one individual of numerous powers of attorney and voting these powers of attorney as a bloc is considered by the Commission as outside the provisions of the law.

5. Three (3) official election judges are required by law for each polling place. They must be capable citizens within the proposed district, and shall be appointed by majority vote at the public hearing. Reasonable care should be taken to appoint a group of judges for each polling place which will represent both those who favor and those who oppose the organization of a soil district. If any appointed judge is not present at the polls on the day and time of the referendum, those judges present may select any citizen of the proposed district to serve in his or her place, and give him or her the necessary instructions. All instructions to judges must make clear that any person designated to conduct such a referendum or assist in such a referendum, and in that manner gains knowledge as to how any land representative voted and reveals such knowledge to any other person shall be guilty of a misdemeanor.

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- a. Judge No. 1. After determining voters' eligibility, delivers one ballot to him. (Unless otherwise provided by soil districts committee, voters should vote at a polling place in the area where the farm they own, or represent, is located.)
 - b. Judge No. 2. Should receive the ballot from the voter and place it in a sealed ballot box distinctly marked for the area. (If local committee decided to allow land representatives owning or representing land in other areas to vote at this polling place, the marked ballots of the land representatives from these other areas should be placed in extra separate ballot boxes provided and distinctly marked for the area in which such farms are located.)
 - c. Judge No. 3. Should list voter's name, address and other information called for on the listing sheet provided and marked for the area. (Suggested listing sheet is attached. If local committee decided to allow land representatives, owning or representing land in other areas, to vote at this polling place, the names, addresses, etc. of such voters should be listed only on the sheets provided and marked for the other areas. The total number of names on the listing sheets used should agree with the number of ballots used.)
6. Close the polls promptly at the closing hour designated but allow those who have entered the polling place before this time to complete their ballots.
7. Immediately after closing the polls, the judges shall open the ballot boxes and carefully count the ballots cast. Tally on the tally sheet provided for the 'Referendum' the number of 'Yes' votes and the number of 'No' votes, and on the tally sheet provided for the 'Election of Supervisors' write plainly the names of the nominees in the proper spaces and tally the votes each receives on the lines just below their name. The nominee who receives the largest number of votes in each of the four areas will be declared elected a supervisor provided the State Soil Districts Commission finds that a substantial representation of opinion has been expressed, that two-thirds of those voting favor the establishment of a district, and declares the district established. (Suggested forms are attached.)

The referendum and election votes should all be tallied thus: ~~///~~ on the proper lines of 'Referendum' and on the 'Supervisor Election' Tally sheets provided. The totals of the votes cast in both cases should then be recorded in the indicated

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spaces. All three judges should sign 'Referendum' and 'Election' Tally sheet used before turning them in.

8. All blanks on 'List of Voters' and all 'Referendum' and 'Election' Tally Sheets must be correctly filled in.

9. The ballots after being counted shall be sealed up in a package by the judges at the polls, and shall not be inspected unless in case of a contested election, and then only on the order of the proper court. Arrangements should be made to return ballot boxes with all ballots (both used and unused), all used 'Listing Sheets, all used Referendum and 'Election' Tally Sheets, properly signed (by all 3 judges) and all supplies to the clerk of the county court or a place specified by the local committee, within 24 hours after polls are closed, where they shall be safely preserved for twelve months. Chairman of the local committee and the clerk of the county court shall report and certify to the total 'Referendum' vote by areas, and polling places and to the total Election votes, by areas for each nominee and send to secretary of State Commission. (A suggested copy of Report and Certification form is attached.)"

Rule No. 1 should provide for at least one notice of the day and place of election in each weekly newspaper in the county so that the land representatives have due notice of the election or referendum.

The statement in the Rule No. 4 that reads: "In addition, it is recommended that this taxpayer, given a power of attorney, be an individual who has something to say about the operation of the farm or farms throughout the year and who would be in a position to work with the soil district if established" be omitted because there is no legal or statutory basis for you to make this recommendation even though it is a desirable recommendation from a soil conservation standpoint. The last paragraph of said Rule No. 4 should read as follows: "Acquisition by one individual taxpayer of the county within which the proposed soil district will be located of more than _____ (you insert the number deemed reasonable) powers of attorney and voting thereby in more than one polling place is prohibited." It is undesirable for persons for or against the organization of a soil district to go around soliciting powers of attorney from landowners in order to have a large voting strength. If the limit is placed upon the number of powers of attorney one individual taxpayer may hold and vote, then a limit on the number of polling places in which such a voter may vote should be made because otherwise the judges would not know that such a person had voted at other polling places in the county in violation of the rule. The rule should be definite and should prohibit rather than state that such conduct is improper.

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The second sentence of Rule No. 5 should be modified to read as follows: "They must be residents of the proposed district, and should be capable and respected citizens. They shall be selected by a majority vote (voice, hand or written ballots) of the land representatives at the public hearing." The words select or selected should be substituted for the words appoint or appointed in Rule No. 5 because they are elected or selected by your rule by vote of the land representatives. The group does not have appointing power. The last sentence in Rule No. 5 might read as follows: "All instructions to judges must make clear that any person designated to conduct such a referendum or assist in such a referendum, and who thereby gains knowledge as to how any land representatives voted and reveals such knowledge to any other person shall be guilty of a misdemeanor."

The suggested forms for the tally sheets to be signed by the election judges were not attached. The tally sheets should have a statement at the bottom which would read as follows: "We hereby certify that the ballot boxes used at this referendum were opened in our presence at the beginning of the election and found to be empty; that the ballot boxes were opened in our presence at the close of the balloting, and that we counted the ballots therein and that the result shown above is the true and correct result of the referendum held on the _____ day of _____ 1950."

You might add another sentence to Rule No. 9 which would read as follows: "The State Soil Districts Commission will pay the county clerk the sum of \$_____ for his personal services in preserving the ballots and for certifying as to the result of the election or referendum." The county clerk might not wish to perform the duties that you are going to impose upon him by Rule No. 9. The county clerk's statutory duties do not include performing the acts required of that officer by Rule No. 9, and therefore he should be compensated for the same. The county clerk might refuse to have anything to do with the referendum and refuse to preserve the ballots. Your rules should provide that in the event that he declines to act, that the ballots be transmitted to the State Soil Districts Commission for safe keeping, together with all records and tally sheets in regard to said referendum."

We wish to call your attention to the fact that said official rules and procedures when adopted by you must then be filed with the Secretary of State to comply with Laws of Missouri, 1945, page 1504. Section 2 of said law provides as follows:

"(a) Each state agency shall file forthwith in the office of the Secretary of State a certified copy of each rule adopted by it, including all rules now in effect. The Secretary of State shall keep a permanent register of such rules open to public inspection.

"(b) Each rule hereafter adopted shall become effective ten days after such filing unless a later date is required by statute or specified in the rule."

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CONCLUSION

It is the opinion of this department that the official rules and procedures for fair and impartial referendums on the establishing of soil districts and a selection of soil district supervisors that have been submitted to this department should be, and are hereby, approved, subject to the modifications and recommendations suggested above.

Respectfully submitted,

Stephen J. Mellett
STEPHEN J. MELLETT
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

SJM:mw *[Signature]*

REFERENDUM AND SUPERVISOR ELECTION
BALLOT, AREA 1. INCLUDES _____
and _____ TOWNSHIPS. _____
_____, 194____.

Do you favor the creation of The Soil
District of _____ County?

Yes (Scratch one)
No

(The three nominees receiving highest
nominating vote for Area 1. List names
alphabetically.)

Vote for only one supervisor by placing
an X in the square before his name

REFERENDUM AND SUPERVISOR ELECTION
BALLOT, Area 2. INCLUDES _____
and _____ TOWNSHIPS. _____
_____, 194____.

Do you favor the creation of The Soil
District of _____ County?

Yes (Scratch one)
No

(The three nominees receiving highest
nominating vote for Area 2. List
names alphabetically.)

Vote for only one supervisor by
placing an X in the square before his
name.

(cut on this line)

(cut on this line)

REFERENDUM AND SUPERVISOR ELECTION
BALLOT, AREA 3. INCLUDES _____
and _____ TOWNSHIPS. _____
_____, 194____.

Do you favor the creation of The Soil
District of _____ County?

Yes (Scratch one)
No

Vote for only one supervisor by placing
an X in the square before his name

REFERENDUM AND SUPERVISOR ELECTION
BALLOT, AREA 4. INCLUDES _____
and _____ TOWNSHIPS. _____
_____, 194____.

Do you favor the creation of The Soil
District of _____ County?

Yes (Scratch one)
No

Vote for only one supervisor by placing
an X in the square before his name.

REPORT AND CERTIFICATION OF REFERENDUM AND ELECTION OF SUPERVISORS
 FOR THE PROPOSED SOIL DISTRICT OF _____ COUNTY HELD _____

194
 Vote

Polling Places		Yes	No
Area 1	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Total referendum vote for Area 1		=====	=====
Area 2	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Total referendum vote for Area 2		=====	=====
Area 3	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Total referendum vote for Area 3		=====	=====
Area 4	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Total referendum vote for Area 4		=====	=====
Total referendum vote for proposed district		=====	=====

	Name of Nominees	Address	Votes Received.
Area 1	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Area 2	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Area 3	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Name of Nominees

Address

Votes Received

Area 4

_____	_____	_____
_____	_____	_____
_____	_____	_____

Total Election Vote in Proposed District

=====

Certification:- The foregoing is a full, correct and true account
of the Referendum and Supervisor Election vote for
the proposed Soil District of _____ County,
held on _____
194 _____.

Signed: _____, 194_____
Chm., Local Sponsoring Committee

_____, 194_____
Clerk of the County Court

