

ELECTIONS ) Same persons may serve as judges of special referendum  
          ) election and school election and same persons may serve  
          ) as clerks of special referendum election and school  
SCHOOLS   ) election.

January 30, 1950



Honorable Walter H. Toberman  
Secretary of State  
Jefferson City, Missouri

Attention: J. Paul Markway, Chief Clerk

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department, and reading as follows:

"We have been receiving inquiries from various county clerks as to whether or not the same judges and clerks may be used to conduct both their school elections and the special election on April 4th."

We find no prohibition in the constitution or statutes of this state against a person serving as a judge or clerk of a school election and at the same time serving as a judge or clerk of a special election at which the voters are to approve or reject a law referred by a petition of the people. The fact that there is no inconsistency in serving as a judge or clerk for different elections held on the same date is illustrated by the provisions of Section 10483, Laws of Missouri, 1943, page 885. Such section, which provides generally for school elections in city, town or consolidated school district, provides in part as follows:

" \* \* \* Provided, that in all cities and towns having a population exceeding two thousand and not exceeding one hundred thousand inhabitants, in counties containing not less than two hundred thousand nor more than four hundred thousand inhabitants according to the last national census, said elections may at the option of the board be held at the same time and places as the election for municipal officers and in all cities and towns

Honorable Walter H. Toberman

having a population exceeding two thousand and not exceeding one hundred thousand inhabitants in other counties, said elections shall be held at the same time and places as the election for municipal officers, and the judges and clerks of such municipal election shall act as judges and clerks of said school election, but the ballots for said school election shall be upon separate pieces of paper and deposited in a separate ballot box kept for that purpose. Should such school district embrace territory not included in the limits of such city or town, the qualified voters thereof may vote at such voting precinct as they would be attached to, provided the ward lines thereof were extended and produced through such adjoining territory: Provided, that in any year in which a county superintendent of public schools is to be elected that the qualified voters of such town, city or consolidated district where registration of voters is required, must vote in the ward or precinct of which they are residents, if the place of voting has been so designated by the board of education. Provided, that if there shall be any other incorporated city or town included in such school district, there shall be at least one polling place within such other incorporated city or town and said school election shall be conducted within the limits of such other incorporated city or town in the same manner as hereinbefore provided for cities or towns having a population exceeding 2,000 and not exceeding 100,000 inhabitants.  
\* \* \*

Therefore, it is our view that where under the designation of the polling places for the school election and for the special referendum election, it is physically possible for the same person to act as judge or clerk of both elections, it is proper to do so.

Honorable Walter H. Toberman

CONCLUSION

It is the opinion of this department that there is no constitutional or statutory provision which prohibits a person from serving as judge or clerk in a school election and a special referendum election, when both elections are held on the same day.

Respectfully submitted,

C. B. BURNS, JR.  
Assistant Attorney General

APPROVED:

\_\_\_\_\_  
J. E. TAYLOR  
Attorney General



CBB/feh