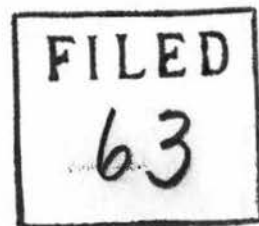


SCHOOLS:

Two vacancies in a city, town, consolidated, or reorganized school district shall be filled by appointment by the county superintendent of schools; two vacancies in a county school board shall be filled by the remaining members.

May 10, 1951

5-10-51



Honorable Garner L. Moody
Prosecuting Attorney of
Wright County
Hartville, Missouri

Dear Sir:

Reference is made to your letter of April 5, 1951, requesting an opinion of this department which reads as follows:

"The question has come up in this county as to who should appoint two new members of a six member school board where two members have resigned.

"We are not agreed as to whether the County School Superintendent, or the remaining directors should make the appointment."

Section 165.317, RSMo 1949, dealing with six member boards of a city, town or consolidated district provides:

"The government and control of such town or city school district shall be vested in a board of education of six members, who shall hold their office for three years and until their successors are duly elected and qualified, and any vacancy occurring in said board shall be filled in the same manner and with like effect as vacancies occurring in boards of other school districts are required to be filled, * * *."

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Section 165.217, RSMo 1949, provides:

"If a vacancy occurs in the office of director, by death, resignation, refusal to serve, repeated neglect of duty or removal from the district, the remaining directors shall, before transacting any official business, appoint some suitable person to fill such vacancy; but should they be unable to agree, or should there be more than one vacancy at any one time, the county superintendent of public schools shall, upon notice of such vacancy or vacancies being filed with him in writing, immediately fill the same by appointment, and notify said person or persons in writing of such appointment; and the person or persons appointed under the provisions of this section shall comply with the requirements of section 165.210, and shall serve until the next annual school meeting."

(Underscoring ours.)

Therefore if the school board to which you have reference is a city, town or consolidated school board, the two vacancies would be filled by the county superintendent of schools.

Section 165.657, RSMo 1949, provides for a six member county board of education. Section 165.667, RSMo 1949, dealing with vacancies of such county board provides:

"Four members of the board shall constitute a quorum. Any member who is absent from board meetings two or more consecutive times without majority approval of the board, or who changes his residence to another county court district, or any member, except those elected at large, who changes his residence to a municipal township or school district in which another member of the board resides, shall be disqualified as a member of the board. If one or two vacancies occur in the membership of the county board of education the remaining members shall before transacting any official business, appoint one or two qualified persons to fill such vacancies until the next annual meeting for the election of the members of the county board of education. In the event the board should be unable to agree in filling a vacancy or there should be more

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than two vacancies at any one time, the county court, upon notice from the secretary of the board of such vacancy or vacancies, shall immediately fill the same by appointment and shall notify said person or persons in writing of such appointment and the person or persons so appointed shall serve until the second Tuesday in April of the following year, when their successors shall be elected for the unexpired term."

It is noted that here the legislature has constituted four members of such board a quorum. Therefore, if the board which you have reference to is a county board, such vacancies may be filled by the remaining four members.

Section 165.687, RSMo 1949, provides for a six member board for a reorganized district. This section in part provides:

"* * *The directors above provided shall be governed by the laws applicable to six-director school districts."

Therefore, with reference back to Section 165.217, RSMo 1949, which is made applicable to six member boards by Section 165.317, RSMo 1949, two vacancies existing in a reorganized district board would be filled by the county superintendent of schools.


CONCLUSION

Therefore it is the opinion of this department that two vacancies existing in a city town, consolidated, or reorganized school district board shall be filled by appointment by the county superintendent of schools and two vacancies existing in a six member county board shall be filled by the remaining members.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:


J. E. TAYLOR
Attorney General

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