

SPECIAL ROAD DISTRICTS:
ELECTIONS:

Manner of casting a ballot in an
election to continue or discontinue the
organization of a special road district.

April 3, 1953



Honorable Harold W. Barrick
Prosecuting Attorney of Pettis County
Sedalia, Missouri

Dear Sir:

Reference is made to your recent request for an official
opinion of this office which request reads as follows:

"I herewith request an opinion from
your office concerning the interpre-
tation of above mentioned subsection
of Section 233.160 R.S. Mo., 1949.
It appears that this subsection is con-
fusing as to the manner of casting a
ballot and the determination of the out-
come of an election for dissolution of
a special road district.

"Such an election has been petitioned
for in Pettis County, and the County
Court is awaiting an interpretation of
this subsection by your office before
setting the date for the special election.
I am sure that they would appreciate an
opinion as soon as it is possible for you
to obtain one for us."

Section 233.160, RSMo 1949, provides for the holding of an
election to vote on the proposition of dissolving a special road
district. Paragraph 3 of this section to which you refer, reads
as follows:

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"3. The county court shall have the ballots for such election printed and shall have printed on such ballots 'For the disorganization of the special road district,' 'Against the disorganization of the special road district,' with the direction 'Erase the clause you do not favor.' If a majority of the votes upon such proposition be cast against it, said district shall be disincorporated and the operation of the law shall cease in said district. In all other respects said election, and the results thereof, shall be governed by the provisions of sections 233.010 to 233.165."

It is provided that the ballots to be used at such election shall have printed thereon "for the disorganization of the special road district," "against the disorganization of the special road district." Said section further provides that the ballot shall contain the direction "erase the clause you do not favor." The term erase used in connection with election laws is defined in 15 Words and Phrases, 168, citing the case of Vallier v. Brakke, 64 N. W. 180, as follows:

"* * *a voter may erase the name of a candidate by crossing it out, as one of the definitions of 'to erase' is to cross out, and a cross would indicate the intention to erase it as well as drawing a line through it."

Under such definition we are of the opinion that if a voter wishes to vote for the disorganization of the special road district he would do so by drawing a line through or striking out the clause against the disorganization of the special road district, and if a voter wishes to vote against the disorganization, he may do so by drawing a line through or striking out the clause for the disorganization of the special road district. In making a determination of the outcome of such election, a count would be made of the clauses not so stricken * either for or against the proposition.

CONCLUSION

Therefore it is the opinion of this office that under Section 233.160, RSMo 1949, providing for an election to vote on the question

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as to whether the organization of a special road district is to be continued or discontinued a voter may vote for the disorganization by striking out the clause as contained on the ballot "against the disorganization of the special road district" and vice versa. In making a determination of the outcome of such election a count would be made of the clauses not stricken.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. D. D. Guffey.

Very truly yours,

JOHN M. DALTON
Attorney General

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