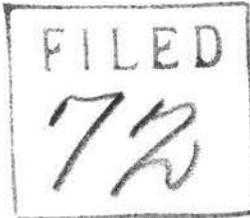


ELECTIONS:

) Senate Bill No. 235 of the 67th General Assembly,
) relating to time off for employees to vote, covers
) all elections and is not confined to primary
) and general elections.



August 28, 1953

Honorable Charles H. Pulis
Member of House of Representatives
Audrain County
Mexico, Missouri

Dear Sir:

We render herewith our opinion based on your request of August 12, 1953, which request reads as follows:

"Senate Bill No. 235, as passed by the General Assembly and approved by the Governor, reads, in part, as follows:

"Any person entitled to vote at any election held within this State, or any primary election held in preparation for such election, shall, on the day of such election be entitled to absent himself from any services or employment in which he is then engaged or employed, for a period of three hours between the time of opening and the time of closing the polls for the purpose of voting;"

"The Associated Press in a release dated June 12, 1953, and hereto attached, contends that this bill, as passed, applies only to primary and general elections.

"The Senate Bill which came to the House for approval read

"Any person entitled to vote at a general election held within this State, or any primary election held in preparation for such election, etc."

Honorable Charles H. Pulis

"This was amended by striking the word 'general' and substituting the word 'any.'

"I will appreciate receiving your official opinion as to whether or not this bill, as passed by the General Assembly and approved by the Governor, applies to all elections or only to primary and general elections, as referred to in the attached Associated Press Release."

You have attached a clipping from a newspaper containing the following paragraph:

"The new law also restricts the time-off-to-vote privilege to primary and general elections. The old law applied to all elections."

The act, by the use of the phrase, "any election held within this State," purports to cover all elections. The language is certainly broad and comprehensive, and we believe that it includes all elections and is not confined to general elections and primary elections.

As to elections covered by the Act, Senate Bill No. 235 of the 67th General Assembly differs from Section 129.060, RSMo 1949, repealed, only in that it specifically covers primary elections in this language:

" * * * or any primary election held in preparation for such election, * * *"

The reason for such change undoubtedly was to avoid the possibility of a court interpretation that the word "election" did not include "primary election" -- a distinct possibility under such cases as Dooley v. Jackson, 104 M.A. 21, 78 S.W. 330, 334, and other cases cited in 14 Words and Phrases, 244, et seq., "Elections (Primary Elections)."

Should there be any doubt as to the correctness of this interpretation, we may look at the changes made in the bill during the course of its enactment.

Honorable Charles H. Pulis

"In many cases, however, amendments of bills or changes made therein during the course of passage in the legislature as disclosed by the records thereof have been regarded as properly considered by the court's interpreting doubtful or ambiguous provisions of the statutes." 50 Am. Jur., Statutes, Sec. 329.

As introduced in the Senate and as perfected, the bill referred to "a general election held within this state or any primary election held in preparation for such general election." As truly agreed to and finally passed, however, it reads thus:

" * * * any election held within this State, or any primary election held in preparation for such election, * *"

This change indicates a definite and conscious legislative intent to broaden the act beyond general and primary elections and to include all elections as in Section 129.060, RSMo 1949, repealed.

CONCLUSION

It is the opinion of this office that Senate Bill No. 235 of the 67th General Assembly, relating to time off for employees to vote, covers all elections and is not confined to primary and general elections.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Yours very truly,

JOHN M. DALTON
Attorney General

WDK/fh