

COUNTY HEALTH PLAN
PETITION:
COUNTY COURT:
ISSUANCE OF BONDS:

Mandatory upon county court to call a session if 10% or more of qualified voters of county request it for the purpose of issuing bonds to establish a county health center. Sec. 205.010, Laws Mo. 1951, does not provide for any protest period after filing of petition.

JOHN M. DALTON
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May 20, 1953

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Honorable Joe Taylor
Representative, Newton County
Neosho, Missouri

John C. Johnsen

Dear Mr. Taylor:

This will acknowledge the receipt of your opinion request of May 6, 1953, which request reads as follows:

"I am enclosing letter from Mr. A. B. Thomas, Spring Lakes Farm, Anderson, Missouri. I would like for you to read this letter and if possible give us an opinion so that Mr. Thomas would know where he stands in this matter. I believe the letter is self-explanatory."

In the above request you have referred to a letter which you received from Mr. A. B. Thomas, Spring Lakes Farm, Anderson, Missouri. The letter reads as follows:

"We are having some difficulty down here about this so-called county health plan petition. Seems that the county court does not wish to grant any protest period after the petition was turned over to them last Monday, April 27. I have filed a formal protest, but James Paul tells the Court that no protest can be accepted. That seems vastly wrong on the face of it.

"Anybody should have the right of challenging any initiative petition as to sufficiency, accuracy of count and legality in general and be granted a sufficient length of time to make such checks as seem necessary.

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"Will you please check this with the Attorney General and let me know what you can ascertain regarding this petition as well as others that come up from time to time? Would like to know whether petitions have to wait out a protest period? If no protest, then when court can certify for election? If protested, how much time is allowable under our statutes? If found insufficient, can the court allow additional time to get more signatures? How much?"

The question to be answered requires the construction of Section 205.010, Laws Mo. 1951, p. 779, which provides for County Health Centers. This provision reads as follows:

"Any county, subject to the provisions of the constitution of the state of Missouri, may establish, maintain, manage and operate a public health center in the following manner: Whenever the county court shall be presented with a petition signed by at least ten per cent or more of the qualified voters of the county, as determined by the number of votes cast for governor at the preceding general election, asking that an annual tax not in excess of ten cents on each one hundred dollars of the assessed valuation of property in the county, be levied for the establishment, maintenance, management and operation of a county health center and the maintenance of the personnel required for operation of the health center, the county court shall submit the question to the qualified voters of the county at the next general election to be held in the county or at a special election called for the purpose, the county clerk giving notice, published once each week for two consecutive weeks prior to such election date, in one or more newspapers published in the county, if any such be published, and if not so published, by posting written or printed notices in each township of the county, fourteen days prior to the election date, which notices shall include the text of the petition and state the rate of tax to be levied annually thereafter upon the assessed property of the county."

The first question you wish answered is whether a protest can be filed against an initiative petition and whether said petition

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must be heard during a protest period. A careful reading of the within cited statute will show that there is no provision therein for a protest period. If a petition signed by 10% or more of the qualified voters in the county requesting an annual tax for the establishment of a county health center is presented to the county court it then becomes the duty of said court to call an election for the purpose of issuing bonds for the establishment of such hospital. It will be noted that the word "shall" is used in this statute which makes the calling of an election mandatory upon the County Court. The county court is not required, nor under the wording of the statute would it be permitted to delay the election for the purpose of the signing of a protest.

Another question you wish answered is, should the petition be found insufficient can the court then allow additional time to get more signatures. If the petition is found to be defective or insufficient the court is then under no duty to call an election. It can determine the sufficiency of the petition when it is filed with them and if the petition is sufficient they must call an election and if the petition is insufficient they are not required to do so.

CONCLUSION

Therefore, it is the opinion of this department that if a petition with 10% or more of the qualified voters of any county requesting the calling of an election for the purpose of issuing bonds to establish a county health center is filed, with the county court it is mandatory upon them to call such election. It is further the opinion of this department that Section 205.010 does not provide for any protest period after the filing of a petition.

This opinion which I hereby approve was written by my Assistant, Mr. John S. Phillips.

Yours very truly,

JOHN M. DALTON
Attorney General

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