

ALTERATION OF
TOWNSHIP LINES:

The county court of a county operating under township organization has the power to change a township boundary line upon the receipt of a petition signed by not less than one-fourth of the voters of the township or townships affected, which petition is followed by a vote in the township or townships affected, and which proposition for change is ratified by a majority of not less than two-thirds of the votes cast.



June 17, 1954

Honorable Elvis A. Mooney
Prosecuting Attorney
Stoddard County
Bloomfield, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"The voters of Stoddard County elected to organize Stoddard County under township organization, as provided in the Constitution for alternate forms of local government; this election occurred many years ago and is the present form of organization in this county.

"Recently the county voted on a plan of school re-organization as determined by the County Board of Education and approved by the Board of Education. One of the local school districts added to the Dexter district is partially located in Castor Township whereas Dexter (the district to which this local district was annexed) is located in Liberty Township; various citizens in this local district who are residing in that portion of the common school district which is situate in Castor Township desires to obtain a change in the location of the township line between Castor Township and Liberty Township so that the section where they live will become a part of Liberty Township; these citizens verbally presented their request to the County Court, whereupon the County Court has requested my office for clarification of the law so that the County Court will know the various pre-requisites, in the law, to effectuate this change in the township lines. I am not informed regarding the position of the County Court as to whether they desire or do not desire to effectuate this change.

"Section 65.530 V.A.M.S., which is a part of the chapter dealing with township organization counties, required a petition of one-fourth of the voters of the township whereupon the court shall submit the

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proposed change to the qualified voters at the next regular township election after proper notice; in such election a two-thirds majority of the votes cast in said election is required to effectuate the change whereas in Section 47.010 V.A.M.S. it appears that the County Court may divide the county into convenient townships and as occasion may require erect new townships and sub-divide townships already established; this section states that the county court may organize better township lines; these things apparently may be done without a petition from the voters and further without the necessity of obtaining the consent of the voters affected thereby.

"Will you please furnish this office with your opinion as to the applicable law together with the necessary steps required for the changing of the boundary line between Castor Township and Liberty Township in Stoddard County, a county operating under the township organization law?"

In the above you referred to Section 47.010 RSMo 1949. Chapter 47, of which this section is a part, is entitled "townships, removal of county seats and division of counties." From its title and context, it is clear that this chapter applies to counties generally. Section 47.010, supra, reads as follows:

"Each county court may divide the county into convenient townships, and as occasion may require erect new townships, subdivide townships already established, organize better township lines, and may, upon the petition in writing, of not less than twenty-five per cent of the legally qualified voters of each township affected, as such vote was cast in the last preceding general election for the office receiving the greatest number of votes in the township or townships affected, consolidate two or more existing townships into one township, or otherwise reduce the number of townships, or change the boundary lines thereof, as may be deemed advisable."

In an opinion rendered April 17, 1942, to Honorable Herbert A. Douglas, Prosecuting Attorney of Newton County, this department held that Section 47.010, supra, meant that the changing of a township boundary line or an increase in the number of townships, could be effected by an order of the county court alone, but that a reduction in the number of townships had to be by petition and vote, as set forth in the latter part of the above section.

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Therefore, we conclude that if Section 47.010, supra, were applicable to your situation, the change in the township boundary line could be effected by order of the county court alone. However, in this connection, we must consider the second section noted by you, to-wit, Section 65.530 RSMo 1949. Chapter 65, of which the above section is a part, is entitled "township organization counties" and deals with the law applicable to such counties. Section 65.530, supra, reads as follows:

"The county court of each county shall have power to alter the boundary of townships and to increase or diminish their number, as follows, viz.: Upon the petition of one-fourth of the voters of the township or townships proposed to be altered, the county court shall submit the proposed alteration to the qualified voters thereof, at any regular township election, by giving at least thirty days' notice thereof to such township or townships, in the usual manner of giving election notices; and if such alteration shall be ratified by a majority of two-thirds of the votes cast by the voters affected thereby, then such alteration shall be confirmed by the county court, and each township shall be named in accordance with the expressed wishes of its inhabitants."

The above section is not, to us, altogether plain. It is however, clarified by the following Section 65.540 RSMo 1949, which refers to it, and which reads as follows:

"The county clerk shall, within thirty days after the county court has established any new township, or changed the boundary lines of any or all the townships in their respective counties, transmit to the secretary of state, who shall keep a record of the same, an abstract of such division or change, giving the bounds of such townships the name designated, and said county clerk shall record, in a book kept for that purpose, a description of each township as fully as in such report to the secretary of state."

From the above, it seems clear that under Section 65.530, supra, the county court of a county under township organization may change the boundary lines of townships, increase the number of townships, and decrease the number of townships, when the provisions of the section are followed, which includes a petition by one-fourth of the voters of the townships affected, and a vote upon the matter.

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We stated above that Section 47.010, supra, applied to counties generally. We feel that in the instant situation Section 65.530 should apply to your situation, since you are a township organization county, and since Section 65.530, supra, specifically applies to such counties.

CONCLUSION

It is the opinion of this department that the county court of a county operating under township organization has the power to change a township boundary line upon the receipt of a petition signed by not less than one-fourth of the voters of the township or townships affected, which petition is followed by a vote in the township or townships affected, and which proposition for change is ratified by a majority of not less than two-thirds of the votes cast.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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