

CITY MANAGER FORM OF GOVERNMENT:  
TRANSPORTATION OF VOTERS:

Numbered paragraph 1 of Section 78.550, RSMo 1949, does apply at a special election in a city of the third class under the city manager form of government which election is held to determine whether the city shall abandon or retain the city manager form of government.

September 29, 1959



Honorable John A. Honssinger  
Prosecuting Attorney  
Laclede County  
Lebanon, Missouri

Dear Mr. Honssinger:

I have your letter of September 14, 1959, which reads as follows:

"This office respectfully requests an opinion of your office regarding an interpretation of Section 78.550, R. S. Mo., 1949, in the following respects:

"Does sub-section 1 of the aforementioned statute providing that no person or persons employ a carriage or an automobile for the purpose of hauling voters on primary or election days apply to a special election being held in the City of Lebanon, Missouri, for the purpose of determining whether or not said City is to retain the City Manager form of government.

"For your additional information, this special election is being held on Tuesday, October 6, 1959, after a petition in proper form was filed under the statutory sections pertaining to City Manager form of government. I would appreciate an early opinion, if at all possible, since the election will be held very shortly."

Numbered paragraph 1 of Section 78.550, RSMo 1949, reads:

"1. No person or persons shall use or employ any carriage or automobile or vehicle of any kind for the purpose of hauling voters to the polls on primary or election days."

Honorable John A. Honssinger

The above is part of the election law applicable to elections held in cities of the third class under the city manager form of government, which is the status of the City of Lebanon at this time.

Section 78.450, MoRS Cum. Supp. 1957, sets forth the procedure which such a city of the third class under the city manager form of government is to follow in voting upon the issue of whether it will abandon or retain the city manager form of government. It is undoubtedly under this section that you are holding the election which we are considering. This section holds that such an election shall be a "special election." Since the words "election days", as used in Section 78.550, supra, are used without qualification, we believe that they would include a "special" election. In the case of *In re Bwley* 245 N.Y.S. 105 1.c. 108, the New York Supreme Court held that the term "election" used without qualifications includes primary, special and general elections.

#### CONCLUSION

It is the opinion of this department that numbered paragraph 1 of Section 78.550, RSMo 1949, does apply at a special election in a city of the third class under the city manager form of government which election is held to determine whether to abandon or retain the city manager form of government.

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

Very truly yours,

JOHN M. DALTON  
Attorney General

HPW/mlw