

SCHOOLS:
SCHOOL DISTRICT:
COUNTY SCHOOL BOARD:
ELECTIONS:

Under Section 165.657, RSMo. Cum. Supp. 1963, an election of county board of education members must be held the first Tuesday in April, 1965, in the Springfield R-12 and all other school districts of Greene County and all districts of counties of the 2nd, 3rd, and 4th class. The fact that members of the Springfield R-12 Board of Education are elected biennially in even-numbered years does not affect the right of the voters of the Springfield R-12 district to vote annually upon county board members.

OPINION NO. 98

March 17, 1965

Honorable Rolland L. Comstock
State Representative
Greene County, 3rd District
2327 North Fremont
Springfield, Missouri



Dear Mr. Comstock:

This official opinion is issued in response to your request of February 3, 1965. You inquire:

- "1. Must he [county superintendent] conduct a special election for the election of two members of the County Board of Education on the 1st Tuesday of April, 1965? I believe there is some confusion about the use of the word 'annual' election in the statute since prior to the law there was no 'annual' election.
- "2. Can patrons of Springfield R-12 School District vote for County Board members at election in April, 1965?
- "3. If patrons of R-12 cannot vote on County Board members, are decision by the County Board of Education affecting the Springfield district legal?
- "4. Can patrons of R-12 vote for members of the County Board of Education in the 1966 election since at that time R-12 will be having its own election? I am assuming that county and R-12 members will be elected at the same election."

You inform us that the Springfield R-12 School District elects its directors biennially for six-year terms (in even-numbered years) and that the other districts in Greene County elect their directors annually.

Honorable Rolland L. Comstock, Representative

Section 165.657 (4), RSMo. Cum. Supp. 1963, provides:

"4. There is created in each second, third and fourth class county in this state a county board of education whose members shall be elected by popular vote at the annual school election held on the first Tuesday in April in each year. * * * " (Emphasis added)

Section 165.657 clearly provides that county board of education elections shall be held annually. The holding of that election is not affected by when other elections must be held. Presidential elections are every four years. State, county and municipal officers are elected at various intervals. Bond elections may be held at almost any time. However, these in no way affect the date of holding the county board of education election. Likewise, the holding of local school board elections does not affect the county board election.

Rather than hold the county board elections on a separate day, the legislature set them on the same day as the annual local school elections. Apparently their purpose was to prevent extra expense and for the convenience of the approximately 1,300 school districts of this state which hold annual school elections. To our knowledge only two districts (St. Joseph and Springfield) wherein county board elections must be held do not hold annual elections.

Your four questions are answered by one basic inquiry, does the fact that members of the Springfield R-12 school board are elected biennially affect the holding of the county board of education election which is held annually?

The Constitution of this State provides:

Article VIII, Section 2 -

"All citizens of the United States, including occupants of soldiers' and sailors' homes, over the age of twenty-one who have resided in this state one year, and in the county, city or town sixty days next preceding the election at which they offer to vote, are entitled to vote at all elections by the people * * *."

Honorable Rolland L. Comstock, Representative

Article I, Section 25 -

" * * * all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

Section 165.657 (4) clearly provides that two members of the county board of education in each second, third and fourth class county shall be elected the first Tuesday of April each year. No person or official is authorized by law to determine whether or not this election should be held. The election is called per force of the statute. Anyone who interfered with the rights of qualified voters to cast their ballots for county board members would be subject to the legal penalties for such interference.

The Greene County Board of Education has jurisdiction over Springfield R-12 and the other school districts of Greene County. The voters of these school districts have the right to vote upon these officials. Thus, an election must be held on the first Tuesday of April, 1965.

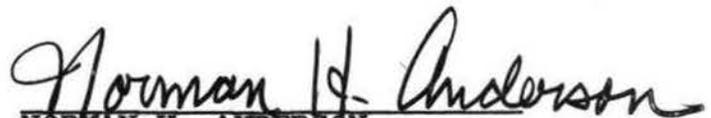
We note that House Bill 301, presently pending before the 73rd General Assembly, would amend Section 165.657. This amendment provides for the election of county board members in second class counties by the members of the local school boards rather than a popular vote. However, until enacted, this Bill does not change the present law nor the conclusions we have here reached.

CONCLUSION

Therefore, it is the opinion of this office that under Section 165.657, RSMo. Cum. Supp. 1963, an election of county board of education members must be held the first Tuesday in April, 1965, in the Springfield R-12 and all other school districts of Greene County and all districts of counties of the 2nd, 3rd and 4th class. The fact that members of the Springfield R-12 Board of Education are elected biennially in even-numbered years does not affect the right of the voters of the Springfield R-12 district to vote annually upon county board members.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Louis C. DeFeo, Jr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General