

April 30, 1965



Honorable John E. Downs
Senator 34th District
Capitol Building
Jefferson City, Missouri

Dear Senator Downs:

This letter is in answer to your request for an opinion of this office on the question of whether the city council of a Constitutional Charter City has the authority to submit proposed amendments of the city charter to the city electorate at a municipal bond election.

Amendment of charters of Constitutional Charter Cities is governed by Article VI, § 20, of the Missouri Constitution:

"Amendments of any city charter adopted under the foregoing provisions may be submitted to the electors by a commission as provided for a complete charter. Amendments may also be proposed by the legislative body of the city or by petition of not less than ten per cent of the registered qualified electors of the city, filed with the body or official having charge of the city elections, setting forth the proposed amendment. The legislative body shall at once provide, by ordinance, that any amendment so proposed shall be

submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided for a charter. Any amendment approved by a majority of the qualified electors voting thereon, shall become a part of the charter at the time and under the conditions fixed in the amendment; and sections or articles may be submitted separately or in the alternative and determined as provided for a complete charter." (Emphasis supplied).

Our problem is whether a municipal bond election is within the meaning of the word "election" that appears in the underlined language of the Constitutional provision.

The question is resolved in State ex rel. Miller v. O'Malley Mo.Sup., 117 S.W. 2d 319, wherein the Supreme Court of Missouri en banc stated at p. 322:

"But it is not true that wherever the word 'elections' appears in the Constitution it refers exclusively to the election of public officers by vote. Section 12, art. 10, Mo. St. Ann. Const. art. 10, § 12, limiting public indebtedness without the assent of two-thirds of the voters, has provided ever since 1875 for an election by the people on that question. Such elections are contemplated by the Constitution. Section 3, art. 8, has always begun with the words 'all elections by the people.' Many years ago these words were held to mean exactly what they say (save as to primary elections.) State ex rel. O'Connell v. Board of President and Directors of St. Louis Public Schools, 112 Mo. 213, 217, 218, 20 S.W. 484, 485. The very election

here involved was recognized by this court en banc as an election by the people in *Vrooman v. St. Louis*, 337 Mo. 933, 88 S.W. 2d 189. There can be no doubt about the fact that the section guarantees the secrecy of the ballot in bond elections, except as relaxed in the proviso."

In view of this decision we construe the language "next election held in the city" to include municipal bond elections. Therefore, the City Council has the authority to submit proposed charter amendments to the city electorate at a municipal bond election, provided the other requirements of Article VI, §20 of the Constitution are complied with.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

DLR/sj