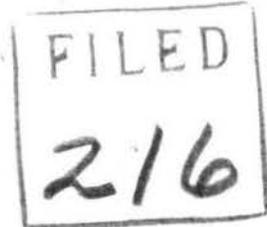


May 3, 1966



Honorable Charles H. Baker
Prosecuting Attorney
Dunklin County
Kennett, Missouri

Dear Mr. Baker:

This letter is in response to your request for an official opinion. You inquire as to the effect of a tie vote on the reemployment of a public schoolteacher.

Section 168.111, RSMo. Supp. 1965, sets forth the law concerning the reemployment of public schoolteachers. Subsection 4, of this statute provides:

"Any motion regarding lack of reemployment of a teacher shall include only one person and a tie vote thereon constitutes reemployment. Disapproval of reemployment to be effective requires a majority vote of the whole board." (Emphasis added)

Since this statute expressly provides that a tie vote on the question of reemployment is sufficient to approve reemployment, there can be no doubt that if a board votes upon reemployment and the vote is tied, then the teacher is entitled to reemployment. The further provisions of Subsection 4, which require a majority vote to disapprove reemployment, also manifest the legislative intent that a tie vote is sufficient to approve reemployment.

Consistent with this provision of Section 168.111, Section 162.301(3), RSMo. Supp. 1965, states:

"A majority of the board constitutes a quorum for the transaction of business, but no contract shall be let, teacher employed, bill approved or warrant ordered

Honorable Charles H. Baker

unless a majority of the whole board votes therefor. When there is an equal division of the whole board upon any question except the reemployment of a teacher, the county superintendent of schools, if requested by at least three members of the board, shall cast the deciding vote upon the question, and for the determination of the question shall be considered a member of the board."

Under the former statutes the courts held that where a vote by a school board on a motion to reemploy a teacher resulted in a tie vote the teacher was not entitled to a contract of reemployment. See, for example, State ex rel. Joslin v. School District No. 7 of Jasper County, Mo. App. 302 S.W.2d 497. These decisions were made under the prior statute, Section 163.090, RSMo 1959. This statute, however, was amended (Laws 1961, p. 351) as quoted above, thus the previous court decisions no longer reflect the law of this State.

Therefore, under the present law where a school board votes on a motion to reemploy a teacher, if a tie vote results, the teacher is entitled to a contract for reemployment.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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