

ELECTIONS: No deviations from the voting hour provisions
PUBLIC WATER SUPPLY of Section 111.370, RSMo., which are adopted
DISTRICT: by Section 247.180, RSMo., applicable to public
VOTING HOURS: water supply districts, are authorized and
that only literal compliance with those pro-
visions constitutes legal compliance.

OPINION NO. 419

November 21, 1967



Honorable George W. Parker
State Representative - District 120
Missouri House of Representatives
507 E. Rollins
Columbia, Missouri 65201

Dear Representative Parker:

This is in reply to your letter of October 19, 1967, in which you requested an opinion on a question which we have chosen to phrase as follows:

Must elections in public water supply districts organized under Section 247.180 RSMo be conducted strictly in compliance with the law relating to state and county elections, or may there be some reasonable deviation in the manner in which the water district elections are held, especially in regard to the time that the polls must be held open?

Section 247.180, RSMo states that . . . "the manner of conducting elections of the district and the hours of voting shall be the same as provided by law for state and county elections". This makes the general election law embodied in Chapter 111, RSMo., applicable to elections of the water district, at least insofar as the manner of conducting the elections and the hours of voting are concerned. The sections of Chapter 111 which are made applicable to the elections of water districts by Section 247.180, RSMo are not specifically spelled out but certainly Section 111.370, RSMo which provides for the hours of voting is one section that is referred to by Section 247.180, RSMo.

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Since the specific question which has been raised concerns voting hours, we will limit our discussion to it.

The literal language of Section 247.180, RSMo., does not provide for any deviation from the general election law when it says that ". . .the hours of voting shall be the same as provided by law for state and county elections". (emphasis added). No alternative provisions are set forth and nothing more is said about voting hours in that part of Chapter 247 which deals with elections of county water districts. A similar provision is found in Section 247.600, RSMo., which deals with elections of water districts in metropolitan areas. We know of no case in which either of these sections has been construed or interpreted by the courts.

The general election law relating to voting hours for state and county elections is set forth in Section 111.370, RSMo. Supp. 1965, which reads as follows:

"The judges of each election hereafter to be held, general or municipal, shall open the polls at six o'clock in the morning and continue them open until seven o'clock in the evening, unless the sun shall set after seven o'clock, when the polls shall be kept open until sunset, except in first class counties having a charter form of government and in counties of the second class containing all or part of a city over four hundred thousand and in cities in the state of twenty-five thousand inhabitants or upward, when the polls shall be opened at six o'clock in the morning and be kept open until seven in the evening."

The time during which the polls shall be open is legally set by statute and no provision is found which authorizes deviations from these hours. It is true that the force of Section 111.370, RSMo has been held to be directory and not mandatory in cases where an election was challenged because the polls were not held open during the hours prescribed by statute. State ex rel City of Memphis vs. Hackman (1918), 202 S.W.7, 273 Mo. 670. We do not express an opinion as to what a court might do after an election where all of the election laws were not strictly followed.

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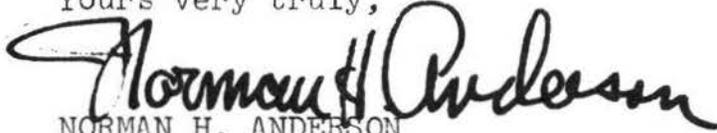
It is the duty of election authorities to obey the law and the law states that the polls in water district elections shall be kept open during the usual voting hours for state and county elections. It is our opinion that the election authorities could be required by mandamus proceedings to keep the polls open during the hours set by statute whether they are considered to be mandatory or directory. We hold that a water district election under Section 247.180, RSMo must be conducted in compliance with the voting hour provisions of Section 111.370, RSMo.

CONCLUSION

It is the opinion of this office that no deviations from the voting hour provisions of Section 111.370, RSMo which are adopted by Section 247.180, RSMo., applicable to public water supply districts, are authorized and that only literal compliance with those provisions constitutes legal compliance.

The foregoing opinion which I hereby approve was prepared by my assistant, Gary G. Sprick.

Yours very truly,



NORMAN H. ANDERSON
Attorney General