BONDS:
ELECTIONS:
CONSTITUTIONAL LAW:

A vote on November 5, 1968, by a municipality to issue general obligation bonds, will not pass if more than 60%, but less than 66-2/3% of the vote is favorable, even though on the same date a proposed constitutional amendment to reduce the percentage requirement to 60% for the issuance of such bonds obtains a majority vote.

OPINION NO. 385

October 17, 1968

FILED
385

Honorable Maurice Schechter
State Senator - 13th District
Missouri Senate
41 Country Fair Lane
Creve Coeur, Missouri 63141

Dear Senator Schechter:

This is to acknowledge receipt of your request for a formal opinion from this office which reads in part as follows:

> "On the ballot on November 5th, will be the proposal to reduce the percentage requirements to pass general obligation bonds from 66-2/3% to 60% and it is my understanding that such constitutional amendments are self enforcing but the question arises as to when the same becomes effective.
>
> "This municipality has a proposal on the ballot on such date authorizing a bond issue and if the state proposal passes reducing the percentage of 60%, would that be effective on November 5th or would the same be effective when certified by the Secretary of State which I believe to be the law and if the same is effective on November 5th, would the bond issue proposal by such municipality on that date pass if the same receives a vote margin of 60% or more."

The constitutional amendment referred to above is set forth in Senate Joint Resolution No. 6. This resolution submits to the qualified voters of Missouri on November 5, 1968, a proposal to repeal Sections 23(a), 26(b), 26(c), 26(d), 26(e), and Section 27 of Article VI of the Constitution of Missouri and adopt seven new sections in lieu thereof, relating to the same subject. One of the features of the proposed amendment would be to reduce percentage requirements of voter approval from 66-2/3% to 60% in regard to general obligation bonds of certain political subdivisions. Therefore, the issue for our determination is whether or not a vote on November 5, 1968, by a municipality to issue bonds, will pass if more than 60%, but less than 66-2/3% of the vote is favorable, provided that on the same date the proposed constitutional amendment to reduce the percentage requirement to 60% for the issuance of such bonds obtains a majority vote.

The procedure for amending the constitution is set forth in Article XII, Section 2(b) of the Constitution of Missouri. Said section reads in part as follows:

> "All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments. * * * * * * <u>If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election</u>.* * * *" (emphasis ours)

Therefore, if the proposed amendment is approved by the majority of voters, it is our belief that the percentage requirements of voter approval in the constitution relating to the indebtedness of certain political subdivisions would be reduced from 66-2/3% to 60% and become effective 30 days after the election. It is to be noted however, that at the time of the municipal election on the bond proposal, November 5, 1968, the constitutional requirement of 66-2/3% of voter approval relating to financial indebtedness of certain political subdivisions will still be in effect. Consequently, we find no authority to hold that the bond issue proposal by such municipality would pass if the same receives less than 66-2/3% of voter approval on November 5, 1968.

CONCLUSION

It is the opinion of this office that a vote on November 5, 1968 by a municipality to issue general obligation bonds, will not

pass if more than 60%, but less than 66-2/3% of the vote is favorable, even though on the same date a proposed constitutional amendment to reduce the percentage requirement to 60% for the issuance of such bonds obtains a majority vote.

The foregoing opinion, which I hereby approve, was prepared by my assistant, B. J. Jones.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

BJJ:fb