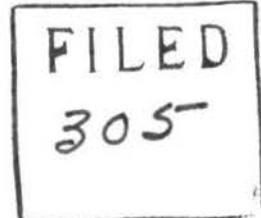


MISSOURI STATE SOIL AND  
WATER DISTRICTS COMMISSION:  
NOTICE OF ELECTION TO LOCAL  
BOARDS OF SUPERVISORS:

Elections for the members  
of boards of soil and  
water district supervisors  
must be preceded by legal  
notice of the time, place,  
and purpose of the election.

September 18, 1969

OPINION NO. 305



Honorable Lee E. Norbury, Executive Secretary  
Missouri State Soil and Water Districts Commission  
705 Hitt, University of Missouri  
Columbia, Missouri 65201

Dear Mr. Norbury:

This official opinion is issued in response to your request for an opinion relating to elections of soil district supervisors. Your question is as follows:

"Is it necessary under the statutes that these elections be advertised with a Legal Notice published in a newspaper or given any other type of legal notice?"

Section 278.110, RSMo Supp. 1965, provides for the establishment of boards of soil and water district supervisors. Such supervisors are to be elected under "rules and procedures formulated by the soil and water commission." The statute is silent on notice, time, and place of elections except they are not to "fall upon the date of any regular political election held in that county."

Please find enclosed Opinion No. 62 addressed to the Missouri State Soil Districts Commission on February 17, 1950. In response to a request for opinion on rules and procedures developed for these elections by the Commission, that opinion concluded, at page 4, that "at least one notice of the day and place of election in each weekly newspaper in the county so that the land representatives have due notice of the election or referendum" should have been provided for in the rules regarding such election. This office agrees with that opinion that notice is necessary.

Honorable Lee E. Norbury

According to the general rule, in special elections, that is, elections where the time and place for holding are to be fixed by an authority having the power to do so (as the Soil and Water Districts Commission in this case), notice of the time, place, and purpose of the election is mandatory. 26 AM Jur 2d, Elections, § 195.

The controlling Missouri authority on notice of elections is the case of State ex rel. Stipp v. Colliver, 243 S.W.2d 344 (Mo. 1951). That case dealt with a referendum on the organization of a new school district, but the principle announced is general in application. At page 350, the court stated:

" . . . Where, as is usually the case in special elections, the time and place for holding the same are not fixed by law but are to be fixed by some authority named in the statute after the happening of a condition precedent, the statutes as to giving notice thereof are considered mandatory, and failure to give notice or issue proclamation of such an election will render it a nullity; . . . "

You will note that the initial election of a board of soil and water district supervisors would be clearly special in nature as the incidents of such election would be determined under rules and procedures formulated by the soil and water commission. Subdivision (2) of § 278.110, RSMo Supp. 1965, provides that the four members so elected will serve four year terms staggered so that two members shall come up for election every two years. It is the position of this office that these elections to be held after the initial election are also special as opposed to general elections. Although the length of terms of office are explicitly set forth so that elections should occur approximately every two years succeeding the initial election, the statute itself does not give notice of when this initial election would be. That is, to have notice of such elections, a person in the district would have to know the date when the first election was held independently of any matter contained in the statute other than the inference that elections would be held at two year intervals following that first election. Therefore, every election of members to a local board of soil and water district supervisors would be special and require that notice be given.

Honorable Lee E. Norbury

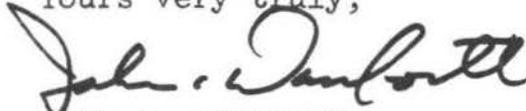
This office suggests that notice of elections of supervisors be given by publication once each week for two consecutive weeks immediately preceding the week of the election in a newspaper of general circulation published in the county (as is true in the case of notice of hearings and referendums for the organization of watershed subdistricts under Section 278.190, RSMo 1959, and for county elections under Section 108.050, RSMo 1959) and that said notice include (1) purpose of the election, (2) date of the election, (3) at what place or places polls will be located, and (4) during what hours the polling places will be open. Such notice also may be given in any other reasonable manner, such as by newsletter or notice by mail.

CONCLUSION

Therefore, it is the opinion of this office that in elections of members to boards of soil and water district supervisors pursuant to rules and procedures promulgated by the Soil and Water Commission, legal notice is necessary.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Michael L. Boicourt.

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. Atty. Gen. No. 62, Missouri State Soil Districts Commission, 2-17-50.