

Answered by Letter
Klaffenbach

March 25, 1970

OPINION LETTER NO. 167

Honorable David N. Lawson
Prosecuting Attorney
Webster County Courthouse
Marshfield, Missouri 65706



Dear Mr. Lawson:

This letter is in response to your opinion request which is stated as follows:

"Over five years ago a county library district was established in Webster County under the provisions of Section 182.010, RSMo. Now a petition has been properly submitted asking for a reconsideration of the tax in accordance with Section 182.020, paragraph 3.

"Must the election on the proposition to reconsider the tax be held at the same time as the annual school election? May it be held at a special election coinciding with the primary or general election?"

"Also, we have residents of this county that belong to School Districts in neighboring counties and who vote in those adjoining counties at the annual school elections. If the election must be held at the same time as the annual school election, how should this problem of residents of this county voting on a measure for this county in another county be handled?"

We note that you refer specifically to Section 182.020, RSMo 1959, and a "reconsideration" of the tax. That is, of course, different than a proposed increase under the provisions of Section 182.010 as amended by the 75th General Assembly.

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Paragraph 3 of Section 182.020 provides:

"3. The tax may be reconsidered whenever the qualified electors of any county library district shall so determine by a majority vote given at any annual election held there- in on such propositions after petition, order of the court, and notice of the election and of the purpose thereof, first having been made, filed, and given, as in the case of establishing such county library district. At least five years must elapse after the county library district has been established and a tax therefor has been levied before an election may be held on a proposition to re- consider the tax." (Emphasis added)

With respect to your first question concerning whether the election must be held at the annual school election, it is our view that the legislature in stating "at any annual election" in Paragraph 3 of Section 182.020 means at any annual school election. In reaching this conclusion, we note that Section 182.010 specifically refers to the annual school election although it provides for an alternative special election. No such alternative is provided in Section 182.020, and we are of the view that a special election could not be held under Section 182.020 in the absence of specific authority.

With respect to the second question that you pose concerning the place of voting, the procedure prescribed by Section 182.010, as amended by the Laws of 1969, House Bill 670, sets forth the procedure to be followed. That is, the clerk of the county court shall furnish ballots, poll books and other necessary election items to the various school boards conducting the annual school elections as provided in Section 179.020, RSMo 1967 Supp. The annual election referred to in Section 179.020 is the annual school meeting, and it is to be conducted as is the election for the county superintendent of schools. In this respect, we refer you to our Opinion No. 83, dated March 10, 1948, to John W. Smith (copy enclosed).

Section 179.020 requires that the clerk of the county court cause to be delivered to the president or clerk of the school boards of the various districts of the county a sufficient number of ballots for the voters of the district and a tally sheet of sufficient size to contain the names of all the voters of the district. It also requires that the tally sheets so far as practicable shall conform to the form of poll book set out in Section 111.510, RSMo 1959, relating to the general elections. In this respect, we

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note that Section 111.510, RSMo 1959, has been repealed and a new section enacted in lieu thereof being designated as Section 111.521 as contained and added by the Laws of 1969, Senate Bill No. 134. Section 179.020 also states that in case a school district is divided by a county line the county clerk shall transmit to the president or clerk of the school board of the district two sets of tally sheets and the voters residing on each side of the line shall vote separately and returns shall be made to each county.

In our Opinion No. 49, dated March 21, 1955, to John C. Kibbe, we held that:

"Under this section the county clerk is to deliver to the president or clerk of the board of education a tally sheet of sufficient size to contain the names of all the qualified voters of the district. In case the district is divided by a county line, he is to transmit two sets of tally sheets to the president or clerk of the board because there will be voters from each county voting on the county superintendent of their respective counties.

"In this case, however, the district lies in three counties. Although the situation is not expressly provided for in the statute, the intention obviously is in such a case that three sets of tally sheets be provided so that the voters of the district residing in each county may vote on their respective county superintendents.

"The tally sheets are not sent directly to the polling places, but are delivered to the president or clerk of the board of education, who in turn delivers them to the polling place or places. For that reason it is not necessary that the county clerk be concerned with the amount of tally sheets distributed to each polling place. His duty is to supply sets of tally sheets sufficient in size to contain the names of all the qualified voters of the district. As a practical matter in this case, if more than one polling place is designated by the board of education, three sets of tally sheets for each polling place should be delivered to the president or clerk of the board of education and the board

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should indicate to the county clerk the size and number of tally sheets needed."

We have not enclosed a copy of this opinion for the reason that it also concerned interpretation of other school statutes which have since been repealed, redesignated and re-enacted.

In answer to your second question, the voters will vote for the library district reconsideration proposition at the places designated for the voting on propositions at the annual school election. Such election will be conducted in the same manner as the election for a county superintendent of schools pursuant to the provisions of Section 179.020.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enc: Opinion No. 83, Smith, 3/19/48