

SCHOOLS ELECTIONS:
ELECTIONS:
BALLOTS:
REGISTRATION:

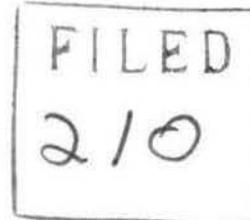
1. When school elections are held in conjunction with any general, primary or special election pursuant to the requirements of Section 111.-111, Senate Bill No. 134, 75th General

Assembly, the procedure for handling voted ballots, poll books and tally sheets after the polls have closed is set forth in Sections 111.531, 111.551, 111.561, 111.571, 111.581 and 111.591, V.A.M.S., Senate Bill No. 134, 75th General Assembly. 2. Pursuant to the requirements of Section 162.361, Senate Bill No. 136, 75th General Assembly, all school elections conducted in school districts containing a city having not less than 10,000 or more than 50,000 inhabitants should be conducted in such city in accordance with the laws regulating the registration of voters within such city. Qualified voters of such a school district residing outside the corporate limits of the city shall sign an affidavit as to their residency within the school district as required by Section 162.361.

OPINION NO. 210

June 2, 1970

Honorable Thomas R. Gilmore
Prosecuting Attorney
Scott County
217 South Kingshighway
Sikeston, Missouri 63801



Dear Mr. Gilmore:

This official opinion is issued in response to your request for a ruling on the following questions:

"The most pressing problem concerns how many Judges and Clerks may be designated by the County Clerk when we conduct a combined election as required by Section 111.111. As a matter of practical necessity, when we have a County election, School election and City election all combined at one polling place, we are going to have to have three sets of poll books. Do Sections 111.181 and 111.231 set minimums or could we designate additional Judges and Clerks where the County Court sees a practical necessity to do so in order to accommodate the combined elections?

"Our second question concerns receiving reimbursement from the cities and schools for a prorata share of the election expenses when

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we have a combined election. It appears from reading the appropriate Statutes that the County Court is responsible, in the first instance, for paying these Judges and Clerks. It is our desire to bill the school districts and the city for their prorata share of this expense. Our question is whether there is any authority for the School Districts and the cities to pay these bills?

"Our next question concerns the interpretation of Section 111.111. It is my position that this Section applies only when you have a County or State general, primary, or special election. I have taken this position because the Section seems to indicate, in sub-section 1, that the provisions apply only when elections of two different types are held at the same time, using the following language 'Whenever any general, primary or special election and elections held by a school, fire or sewer district, municipality or other political subdivision are held on the same day.' A contrary position has been taken by another attorney and it is his feeling that this Section would apply in cases where a city election and a school election were being held on the same day but no other election being held that day. We would appreciate having your interpretation on this question.

"Our next question concerns the handling of election materials, including ballots, poll books, and tally sheets, in cases of joint elections. Section 111.551 directs that the poll books shall be 'directed on the outside to the Board of Election Commissioners, the County Clerk or City School District.' Other Statutes in this area refer to 'Election Commissioners or County Clerk.' This problem creates some concern because the Board of Education continues to have the responsibility of certifying the results of the School election.

"Another question that has arisen concerns registration in School elections. The City of Sikeston is a city in excess of 10,000 people and less than 50,000 people and for that reason

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this School District seems to come within the purview of Section 162.361. Scott County is a local option registration County under Chapter 114. Section 114.240 provides that the Chapter applies only to State and County general, special and primary elections. For that reason, it would appear that applying the general registration Statutes pertaining to Scott County to the provisions of Sections 162.361 (2) would leave the School District in our area in a situation where registration is not required for School elections. We would appreciate hearing from you on this question."

I.

Enclosed herewith please find a copy of Opinion No. 199 dated March 4, 1970, to the Honorable Kenneth R. Babbit. Reference should be made to the answer to Question 2 in Opinion No. 199 which we believe is responsive to your first question.

II.

Your second question, we believe, is answered by Opinion No. 181 dated May 18, 1970, to the Honorable M. C. Bauer which sets forth our conclusions on the payment of election expenses incurred on April 7, 1970.

III.

We are enclosing herewith Opinion No. 161 dated March 4, 1970, to the Honorable Floyd E. Lawson which, we believe, answers your third question concerning the interpretation of Section 111.111, V.A.M.S., Senate Bill No. 134, 75th General Assembly. Paragraph 1 of Section 162.371, V.A.M.S., Senate Bill No. 136, 75th General Assembly would govern the situation where a school district and city hold elections on the same day.

IV.

Your fourth question concerns the handling of poll books, tally sheets and ballots where a joint election is held pursuant to Section 111.111. Section 111.531, V.A.M.S., Senate Bill No. 134, 75th General Assembly, provides the method for preserving and classifying ballots after the polls have closed:

"2. Immediately after this proclamation is made, and before separating, the judges shall fold in two folds and string closely on a single

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piece of flexible wire or cord all the ballots counted except those marked 'objected to,' 'defective' or 'rejected'. The ends of the wire or cord shall be tied in a firm knot and the knot sealed in such manner that it cannot be untied without breaking the seal. The ballots so strung shall be enclosed in an envelope, sack or other container on which shall be endorsed the name or number of the election district or precinct and the date of the election and shall be tied and sealed with official wax impression seals, to be provided for such purpose, in such a manner that it cannot be opened without breaking the seals.

"3. The ballots, together with the package containing the ballots marked 'objected to', 'defective', 'rejected' or 'spoiled', shall be returned to the office of the county clerk or board of election commissioners as the case may be."

If it is required that the voted ballots be returned in the ballot box used during the voting, the procedure for doing so is set forth in Section 111.561, V.A.M.S., Senate Bill No. 134, 75th General Assembly.

Section 111.551, V.A.M.S., Senate Bill No. 134, 75th General Assembly, sets forth the procedure for preserving poll books and tally sheets:

"The poll books shall be enclosed in an envelope, which shall then be securely sealed with sealing wax, or other adhesive material. Two of the judges of opposite politics or any two city school district judges shall write their names across every fold at which the envelope, if unfastened, could be opened. The poll books shall be placed in the sack or other container provided for this purpose. Each set of tally sheets shall also be signed by the election clerks and the judges of election, and they shall be enclosed in an envelope, securely fastened, sealed and signed in like manner. The envelopes shall be directed on the outside to the board of election commissioners, the county clerk or city school district. On the outside of every envelope shall be endorsed whether it contains the poll books or the tally sheets, and for what precinct and ward or township or city school district."

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The procedure for handling voted ballots, poll books, tally sheets and other election supplies is provided in Section 111.571, V.A.M.S., Senate Bill No. 134, 75th General Assembly.

"1. If the voted ballots are returned to the county clerk or board of election commissioners in the ballot boxes one of the judges of election shall take charge of the ballot boxes, and one of the judges representing the opposite political party shall receive and hold the key thereto. When sacks or other containers are used to hold the voted ballots one judge of election shall take charge of the package containing the ballots and the sack or other package containing the nonvoted ballots, and one judge representing the opposite political party shall take charge of the sack and other packages containing the sealed envelopes holding the poll books, tally sheets, unused election supplies, affidavits and other reports, and in jurisdictions having voter registration, the registration books.

"2. The two judges of opposite politics shall immediately upon completing the signing of the statements of the results of the canvass and tally sheets and the sealing of the ballot box, sack or other container, and the performance of all other duties in their respective polling place go together to the office of the county clerk or the board of election commissioners and deliver the ballots and returns to the county clerk or election commissioners, who shall keep their offices open until all of the ballots and returns have been received."

Paragraph 1 of Section 111.581, V.A.M.S., Senate Bill No. 134, 75th General Assembly, sets forth the duties of the county clerk on receipt of the voted ballots and other election supplies:

"1. The election commissioners, or county clerk, upon the receipt of a ballot box and the key thereto, or a sack or container containing ballots cast at the election shall note the condition of seal or stamp on the box or container and enter a statement of its condition upon a book kept for this purpose together with the name of the judge who returned the ballot box, and the name of the

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judge who returned the key. The election commissioners or the county clerk, shall thereupon open the ballot box and other containers, remove the poll books containing the returns of the votes cast, and note upon the books their condition, and put them together with the voted ballots in a secure place, under lock and key, except that one of the pool books from each election district or precinct shall be available for public inspection."

Section 111.591, V.A.M.S., Senate Bill No. 134, 75th General Assembly, provides that ultimately all ballots shall be sealed in a package and returned to the county clerk or board of election commissioners to be preserved for a 12 month period.

Section 111.611, V.A.M.S., exempts school elections from the provisions of certain sections in Chapter 111. None of the sections set forth above are within the terms of Section 111.611. Furthermore, we find no specific provisions pertaining to the handling of election supplies in the statutes governing elections in six director school districts. We conclude, therefore, that the procedures set forth in Sections 111.531, 111.551, 111.561, 111.571, 111.581 and 111.591 pertaining to the handling of voted ballots, poll books and tally sheets after the polls have closed apply to school elections held in conjunction with any general, primary or special election pursuant to Section 111.111.

V.

Your fifth question concerns the application of registration laws to school elections. As you point out, Section 114.240, RSMo 1967 Supp., provides that the county option registration provisions of Chapter 114 apply to ". . . state and county general, special and primary elections and municipal elections of all kinds in cities having more than four hundred thousand inhabitants." Because the tax referendum issue was a statewide special election, the provisions of Chapter 114 applied to the conduct of the election on that issue. However, pursuant to paragraph 2 of Section 162.361, V.A.M.S., Senate Bill No. 136, 75th General Assembly, any school election held on April 7, 1970, within the City of Sikeston (a city having more than 10,000 but less than 50,000 inhabitants) should have been conducted in accordance with laws regulating registration of voters within the city. See Section 116.010, RSMo 1967 Supp. and Section 114.040(1), RSMo 1967 Supp.

Furthermore, it is the opinion of this office that all school elections conducted in a school district containing a city having not less than 10,000 nor more than 50,000 inhabitants should be

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conducted in such city in accordance with the registration laws pertaining to the city. This conclusion is based on the following wording of paragraph 2 of Section 162.361:

"2. Except in counties governed by subsection 1, the board of education in every school district containing a city having not less than ten thousand nor more than fifty thousand inhabitants shall require that all school elections shall be conducted in accordance with the laws regulating the registration of voters and general elections within the city; and that qualified voters outside the corporate limits of the city, not required to register for general elections, shall sign an affidavit as to their residence within the school district. . . ." [Emphasis added]

We do not believe that the emphasized wording of Section 162.-361 means that registration shall be used in school elections only when city elections are taking place which require registration to be used. It is our conclusion that the legislature intended that registration should apply to "all school elections" in this type of school district regardless of when they are conducted.

CONCLUSION

Therefore, it is the conclusion of this office that:

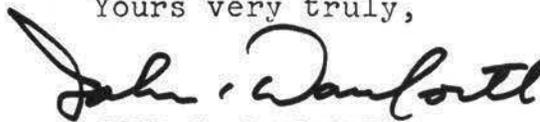
1. When school elections are held in conjunction with any general, primary or special election pursuant to the requirements of Section 111.111, Senate Bill No. 134, 75th General Assembly, the procedure for handling voted ballots, poll books and tally sheets after the polls have closed is set forth in Sections 111.531, 111.551, 111.561, 111.571, 111.581 and 111.591, V.A.M.S., Senate Bill No. 134, 75th General Assembly.

2. Pursuant to the requirements of Section 162.361, Senate Bill No. 136, 75th General Assembly, all school elections conducted in school districts containing a city having not less than 10,000 or more than 50,000 inhabitants should be conducted in such city in accordance with the laws regulating the registration of voters within such city. Qualified voters of such a school district residing outside the corporate limits of the city shall sign an affidavit as to their residency within the school district as required by Section 162.361.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant D. Brook Bartlett.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 199
3-4-70, Babbit

Op. No. 181
5-18-70, Bauer

Op. No. 161
3-4-70, Lawson