BONDS:
SCHOOLS:
ELECTIONS:
NOTICES:

The notice requirements for special school elections set out in Section 162.061, RSMo 1969, are satisfied by official notices published twenty-five and eighteen days before an election.

OPINION NO. 107

February 14, 1974

Honorable Flavel J. Butts
Representative, District 132
Room 235A, Capitol Building
Jefferson City, Missouri   65101

Dear Representative Butts:

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

> "Is the notice of a special bond election held November 20, 1973, given pursuant to Section 162.061, RSMo. (1969), valid if it was published October 26, 1973, and November 2, 1973, such notice having been published for two consecutive weeks with both publications being more than fifteen days prior to the date of the election?"

You have furnished this office with the following factual background to your question:

> "A special bond election was held in Camdenton Reorganized School District No. R-3 of Camden County, Missouri on November 20, 1973. The election was called pursuant to Section 164. 121,RSMo. (1969), which provides that notice of election shall be given in the manner provided by Section 162.061, RSMo. (1969). Notice of the election was published in a weekly newspaper of general circulation in the school district for two consecutive weeks, the first publication being on October 26, 1973, and the last publication being on November 2, 1973. Section 162.061 provides that published notice of a special election shall be given '...once a week for two consecutive weeks, the first publication to be at least fifteen

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> days before and the last publication to be at
> least seven days before the date of the elec-
> tion...'

"This section does not provide any minimum
time preceding an election, when the last
publication must be run. The absence in
Section 162.061, of a minimum time next pre-
ceding an election when the last publication
must be run gives rise to the question pre-
sented under paragraph 3 of this request."

Section 162.061, RSMo 1969, reads as follows:

> "Unless otherwise prescribed by this law no-
> tice of any special election or meeting in
> any school district or of any proposal to
> be voted on at an annual election or meeting,
> when required by law, shall be in writing and
> shall be given either by posting written no-
> tices in at least five public places within
> the district at least fiteen days before the
> meeting or election, or by publishing the no-
> tice in a newspaper within the county in which
> all or a part of the district is located which
> has general circulation within the district,
> once a week for two consecutive weeks, the
> first publication to be at least fifteen days
> before and the last publication to be at least
> seven days before the date of the election or
> meeting. The method of giving notice shall
> be determined by the school board of the dis-
> trict by an order entered on the records of
> the district. Each notice shall contain a
> brief statement of the questions or proposals
> to be voted on at the election or meeting."
> (Emphasis added)

We shall assume that all other requirements set out in this
statute relating to the content of the notice and the place and
method of publication have been met, and that the only question
is whether the dates of publication--twenty-five and eighteen days
before the election--were within the times provided by the statute.

The traditional rule in Missouri has been that the require-
ments for the time and quantity of notice for special elections
will be strictly enforced, and an election will be set aside if
too little notice was given. State ex rel. City of Berkeley v.
Holmes, 219 S.W.2d 650 (Mo.Banc 1949); American Legion Phillips

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Post v. City of Malden, 330 S.W.2d 189 (Spr.Ct.App. 1959); but see State ex rel. Boyer v. Whittle, 401 S.W.2d 401 (Mo. 1966).

Section 162.061 provides that notice of a special school election must be published for two consecutive weeks when notice is given by publication in a newspaper, the first publication being at least fifteen days before the election and the second at least seven days before the election. These minimum periods are designed to assure that all voters learn of an upcoming election in enough time to investigate and discuss the issues involved, and so that all voters may plan their affairs so that they may vote at the election.

Although the law requires notice at least a week before the election, it does not explicitly provide the earliest date notice may be published; that is, any notice published more than fifteen and seven days before the election is within the literal terms of the statute. We do not interpret this, however, to allow publication of notice six months or a year before the election. Considering the purposes of statutory notice, we believe that the publication of notice must occur within a reasonable length of time before the election where the statute is not more specific. Naturally, the closer to the election, the better, so long as the minimum periods are observed, but any attempt to interpret Section 162.061 as requiring the second notice to appear during the week ending the seventh day before the election would be unduly narrow and technical. Rather, a rule of reason should be applied based on the facts of each case.
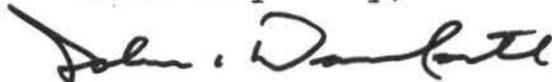
In the situation involved here, both publications of notice occurred during the month before the election, and the second publication was only eighteen days before the voting took place. We believe that this schedule gave adequate notice and did not represent an unreasonable period of time during which the election might be forgotten by the voters.

CONCLUSION

It is, therefore, the opinion of this office that the notice requirements for special school elections set out in Section 162.061, RSMo 1969, are satisfied by official notices published twenty-five and eighteen days before an election.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Richard E. Vodra.

Yours very truly,

JOHN C. DANFORTH
Attorney General