



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

March 29, 1976

OPINION LETTER NO. 71

Honorable John T. Russell
State Representative, District 150
Room 202, State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Russell:

This letter is in response to your opinion request in which you have asked as follows:

"In a Special Election to annex additional territory into a Special Road District who is eligible to vote? Are all registered voters of the proposed district eligible to vote or only those registered voters in the area to be annexed? See Section 233.155."

Section 233.155, RSMo, to which you refer, provides in full as follows:

"1. Whenever the inhabitants of any special road district already formed under sections 233.010 to 233.165 shall desire to extend the boundaries of such district to take in territory not included in the original district, and shall present a petition to the county court of the county in which such district is located, or if the proposed district is to include portions of more than one county, then to the county courts of each of such counties, signed by not less than thirty-five resident property owners in the old district and not less than fifty per cent of the

resident property owners in the territory proposed to be taken into said district, asking the county court or courts of such county or counties to submit the proposition of the proposed extension of such road district to a vote of the people of such proposed district on a day to be named in such petition for their adoption or rejection, the county court of such county, or if the proposed district shall include parts of more than one county, the county courts of all such counties, shall each make an order of record that the proposed extension of said road district under the provisions of this section, describing the same by its title and the date of its approval, and describing the boundaries of the district as proposed to be extended, be submitted to the voters of such proposed road district on the date stated in the petition, at the next general election, if such date falls on a general election; if not, then at a special election to be held for that purpose at such time specified in said petition.

"2. Each county court shall give notice of such election by publishing the same in some newspaper published in its county. Such notice shall be published for not less than two consecutive weeks, the last insertion to be within five days next before such election, and such other notice may be given as the court or courts may think proper.

"3. The said county court or county courts of each of said counties shall have the ballots for the election in their counties printed, and shall have printed upon such ballots: 'For the extension of the special road district,' 'Against the extension of the special road district.' 'Erase the clause you do not favor.'

"4. If the territory of more than one county be included in said special road district, the county court of each county in said district shall, as soon as the returns are in from said election, cause a certificate to be made out stating the number of votes cast for

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and against said proposition in said county, and cause such certificate to be filed with the county clerk of the county court of every other county which shall form a part of said special road district. If it shall appear from the returns of said county and from said certificate that a majority of the votes cast upon the proposition in the whole proposed district be in favor of the extension of said road district, the county court or county courts in said proposed district shall declare the result of the vote thereon in said proposed district by an order of record, and shall make an order of record that the above specified road district laws shall extend to and be the law in such special road district, including the extension thereof, setting out the boundaries of said district as extended, the same to take effect and be in force from and after a day to be named in such order, said day to be not more than twenty days after said election.

"5. In case any special election shall be held for the purpose of extending any special road district, the county court of each county which shall form a part of such proposed district shall appoint three judges of election for each voting precinct in such proposed special road district in their respective counties, one of whom shall be the clerk of the election, which judges and clerks shall subscribe and take the oath required of judges and clerks of election.

"6. Except as herein provided, said election shall be governed by the laws of the state of Missouri for the election of county and state officers; provided, that a failure to comply with the registration laws shall not affect or invalidate said election.

"7. If any territory added to any such original district be in any county outside of the county of such original district, each county outside of such original district may appoint one road commissioner to act with the

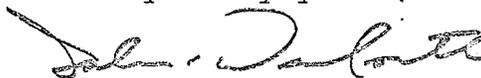
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commissioners appointed in the county of the original district. Such commissioners so appointed outside of the county of the original district shall serve for a term of three years from the date of such appointment, and until their successors shall be appointed and qualified. Such commissioners shall be resident taxpayers of such added territory in such county of their appointment. Except as herein provided, such commissioners shall be governed by sections 233.010 to 233.165. No change shall be made in the number of commissioners appointed by the county of the original district or in the manner of their appointment.

"8. Each county shall pay the election expenses made in such county. If a majority of the votes of the proposed district, as extended, be cast in favor of such extension, then the territory of such district, as extended, shall be governed by sections 233.010 to 233.165. But if such extension proposition shall not receive a majority of the votes of said district, as extended, then said special road district shall remain as it was before said petition was filed. Any special road district extended under the provisions of this section may be extended so that after such extension it shall not be more than seventeen miles square." (Emphasis added).

As can readily be seen from the above quotation, the statute refers to a vote of the people of such proposed district as extended. This then means, in our view, a vote of the people presently included within the district as well as those voters who are located within the territory sought to be annexed.

Very truly yours,



JOHN C. DANFORTH
Attorney General