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OPINION LETTER NO. 162

Honorable James C. Kirkpatrick
Secretary of State
State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

This is in answer to your recent opinion request asking whether a proposed amendment to the Constitution of Missouri is to be submitted at the November, 1978 General Election, unless the Governor calls a special election prior to such date.

The proposed amendment about which you inquire is contained in House Joint Resolution No. 67 of the 79th General Assembly. Such resolution provides that Section 12(a) of Article X of the Constitution of Missouri is repealed and a new section adopted in lieu thereof to be known as Section 12(a).

The first paragraph of House Joint Resolution No. 67, provides as follows:

"That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 1980, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the constitution of the state of Missouri:"

We believe that your opinion request is answered by Opinion No. 129, rendered September 20, 1972, to Representative James G. Baker. Such opinion related to a proposed constitutional amendment

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submitted by the initiative. However, we believe the reasoning therein to be applicable to your question. We enclose a copy of such opinion.

On page 2 of the enclosed opinion we quote a portion of Section 2(b) of Article XII of the Constitution of Missouri, which relates to all amendments proposed by the General Assembly or by the initiative. Therefore, our ruling as to initiative petitions for constitutional amendments in such opinion is also applicable to joint resolutions of the General Assembly of Missouri proposing amendments insofar as the election dates for such proposed amendments are concerned.

In the enclosed opinion we held that the Constitution of Missouri does not provide for the circulators or signers of a petition to designate the date of the election for a proposed amendment and we believe it to be equally clear that there is no provision in the Constitution for any General Assembly of Missouri to designate a date for submission of a proposed amendment to the Constitution which date is after such General Assembly ceases to exist.

The next general election after the passage of House Joint Resolution No. 67 of the 79th General Assembly is the biennial election to be held in November, 1978.

It is therefore our view that the constitutional amendment proposed by House Joint Resolution No. 67 of the 79th General Assembly must be submitted at the November, 1978 General Election unless the Governor of Missouri calls a special election prior thereto at which special election he may submit such proposed amendment.

Very truly yours,

JOHN ASHCROFT
Attorney General

Enclosure: Op. No. 129,
9/20/72, Baker