

BALLOTS: The Boone County Commission is not
COUNTIES: authorized to call a nonbinding
COUNTY ELECTIONS: preference election on the sale or
COUNTY HOSPITAL: lease of Boone County Hospital.
ELECTION BALLOTS:
ELECTIONS:

December 4, 1987

OPINION NO. 204-87

The Honorable Ken Jacob
Representative, District 25
State Capitol Building, Room 110-B
Jefferson City, Missouri 65101



Dear Representative Jacob:

This opinion is in response to your question asking:

Can the Boone County Commission call a
nonbinding preference election on the sale
or lease of the Boone County Hospital?

Enclosed herein is a copy of Missouri Attorney General Opinion Letter No. 111, Harper, 1978, and a copy of Missouri Attorney General Opinion No. 478, Weier, 1969. As discussed in these opinions, the county commission can only place a proposition on the ballot when so authorized by law. A review of the applicable statutes does not reveal any law authorizing the Boone County Commission to call a nonbinding preference election on the sale or lease of the Boone County Hospital at this time.

We note that Section 205.354, RSMo 1986, authorized an election on a similar question at the primary or general election day in 1986. Such section provides:

205.354. Sale of county hospitals,
certain second class counties -- election
procedure -- ballot form (Boone County).
-- 1. The county commission of any second
class county having a population of at
least one hundred thousand and which
operates a county hospital may call a
nonbinding preference election to deter-
mine the wishes of the voters of the county
as to whether the county hospital is to be
sold. If called by the commission, the

The Honorable Ken Jacob

election shall be held on the primary or
general election day in 1986.

2. The election shall be conducted by the election authority of the county in the same manner and in all other respects as in elections for state and county offices. The results of the election shall be certified by the county commission. The costs of the election shall be paid and notice shall be given as otherwise provided by law.

3. The proposition shall be submitted in the following form:

Shall the county commission sell
the county hospital?

Yes


No

(Emphasis added.) Where a statute limits the doing of a particular thing in a prescribed manner, it necessarily includes in the power granted the negative that it cannot be otherwise done. State ex rel. State Highway Commission v. County of Camden, 394 S.W.2d 71 (Mo.App. 1965). The fact that the legislature specifically authorized an election as described in Section 205.354 in 1986 would indicate that an election such as that described in your question cannot be held in 1987 or subsequent years.

CONCLUSION

It is the opinion of this office that the Boone County Commission is not authorized to call a nonbinding preference election on the sale or lease of Boone County Hospital.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General