

ELECTIONS:
SCHOOL BONDS:
ABSENTEE BALLOTS:

Absentee ballots may be cast at
special school bond elections.

June 8, 1951



Honorable Earl A. Bear
Member
Missouri House of Representatives
Jefferson City, Missouri

Dear Sir:

This is in reply to your request for an
opinion which is as follows:

"Will you please give me an opinion
on voting absentee ballots in a
special school bond election."

The provision for the casting of absentee
ballots in elections is found in Section 112.010
RSMo 1949, which is as follows:

"Any person being a duly qualified
elector of the state of Missouri,
other than a person in military or
naval service, who expects to be
absent from the county in which he
is a qualified elector on the day
of holding any special, general or
primary election at which any presi-
dential preference is indicated or
any candidates are chosen or elect-
ed, for any congressional, state,
district, county, town, city, vil-
lage, precinct or judicial offices
or at which questions of public
policy are submitted, or any person
who through illness or physical
disability expects to be prevented
from personally going to the polls
to vote on election day, may vote
at such election as herein provided."

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In the determination of this request it first becomes necessary to determine whether or not school bonds can be voted on at a special election. Section 165.040, RSMo 1949, providing for the issuance of bonds states as follows: "The question of loan shall be decided at an annual school meeting or at a special election to be held for that purpose."

The next question for determination is whether or not a special school bond election is one at "which questions of public policy are submitted" within the meaning of Section 112.010, supra. In an opinion under date of January 31, 1951 (Hungate) this office held that an absentee ballot may be cast in a school re-organization election, basing the reason for this allowance upon the fact that a school re-organization election is a special election, and one at which questions of public policy are submitted. In an early opinion under date of April 10, 1934 (Morris) this office ruled that absentee ballots might be cast at the special election called by the Governor for the purpose of voting on a \$10,000,000 bond issue by constitutional amendment, and held that such an election was one at which questions of public policy are submitted, "namely that of bonding the State."

We do not believe that the phrase "public policy" should be given a strict, technical definition such as is usually cited in the cases. That phrase has been most generally used as a principle of law which holds that no one can lawfully do that which has a tendency to be injurious to the public or against the public good. The term is one of broad significance and cannot be comprehensively defined in specific terms. Public policy has been said to be synonymous with policy of law, and also has been defined as the public good. In many of its aspects the term "public policy" is but another name for public sentiment. (50 C.J. 857, 858).

Election laws must be liberally construed in aid of the right of suffrage. (Application of Lawrence, et al., 185 S.W. (2d) 818, 353 Mo. 1028).

In view of the above we believe the true rule to be that qualified voters may cast an absentee ballot at a special school bond election. We believe that the phrase "questions of public policy" should be given a broad meaning and should be considered in view of the

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context of Section 112.010, RSMo 1949. We believe it carries more of a connotation, "questions which affect the public" or "questions of policy to be decided by the public." The Legislature has provided for a method of testing public sentiment on the question of school bonds. We see no reason to deny to absentees the right to cast ballots on such a question.

CONCLUSION

Therefore, it is the opinion of this department that absentee ballots may be cast at a special school bond election.

Respectfully submitted,

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APPROVED:

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