

BOND ELECTION: Voters residing in a special road district which includes a part of a township may vote on bonds for township road purposes.

June 4, 1937.

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Mr. Geo. E. Mapes,
Clerk, County Court,
Grundy County,
Trenton, Missouri.

Dear Sir:

We wish to acknowledge your letter of recent date wherein you state as follows:

"I have the honor, at the direction and request of the County Court of Grundy County, Missouri, to seek an opinion concerning a township bond issue involving the facts hereinafter set forth.

Grundy County is under township organization. Jefferson township is located in Grundy County. Gees' Creek Road District includes a portion of Jefferson township--this special road district has never issued bonds, and has no bonded indebtedness.

The required number of voters of Jefferson township, have presented a petition to the County Court, requesting that an election be held for the issuance of bonds--this petition was properly submitted in accordance with the terms and provisions of Section 7960 of the Revised Statutes of (1929).

The election is to be held May 15th.

Will you please inform us as to the following questions. (1) Can voters residing in both Jefferson township and that portion of Gees' Creek District

located in the township, vote on the bond issue, or should the voters be confined to those who reside in that portion of Jefferson township not included in the Gees' Creek District? (2) Is it proper for the County Court to treat all of that portion of Jefferson township, which is not in the Gees' Creek District, as a separate township for all road purposes; and to deal with it as though it were a separate township and did not include the Gees' Creek Road District?"

Section 7960, R. S. Mo. 1929, provides that road bonds may be issued by the board of commissioners for special road districts and by county courts for townships, in part, as follows:

"The board of commissioners of any special road district organized and incorporated under the laws of this state, for and on behalf of such district, and the county courts of the several counties, on behalf of any township in their respective counties, are hereby authorized to issue road bonds * * *."

Section 7961, R. S. Mo. 1929, provides how an election shall be held for the issuance of road bonds, in part, as follows:

"Whenever the board of commissioners of any special road district proposes to issue bonds for road purposes, they shall order an election to be held for that purpose; and whenever twenty legal voters of any township shall file with the clerk of the county court wherein the township is located a petition in writing asking that bonds for road purposes be issued for and on behalf of such township, it shall be the duty of the court to order an election to be held in such township upon the question of issuing bonds.

* * * * Provided, that no person shall be permitted to vote at such election who would not be qualified to vote at a general election were a general election held on that day. If it shall appear that two-thirds of the voters voting at such election on said question shall have voted in favor of the issuance of said bonds, the board of commissioners of the special road district, or the county court, as the case may be, shall order and direct the execution of the bonds for and on behalf of such special road district or township, and shall provide for the levy and collection of a direct annual tax upon all the taxable property in said district or township sufficient to provide for the payment of the principal and interest of the bonds so authorized as they respectively become due."

Section 7964, R. S. Mo. 1929, provides as follows:

"The four next preceding sections, to-wit: sections 7960, 7961, 7962 and 7963, R. S. 1929, shall not apply to any township, the whole or any part of which is included in a special road district that has issued bonds, the whole or any part of which are outstanding and unpaid; nor shall said sections apply to any special road district which includes the whole or any part of any township which has issued bonds for road purposes, the whole or any part of which bonds are outstanding and unpaid, nor shall said sections apply to any special road district which includes the whole or any part of the territory of any other special road district which has incurred an indebtedness evidenced by an issue of bonds, the whole or any part of which are outstanding and unpaid."

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Section 9764, supra, recognizes that a township may include the whole or any part of a special road district by specifically providing that Sections 7960 and 7961, supra, among others, shall not apply to any township, the whole or any part of which is included in a special road district that has issued bonds. We are advised that Gees' Creek Road District, which includes a part of Jefferson township, has never voted bonds, so that Sections 7960 and 7961, supra, among others, clearly apply.

In calling an election to issue bonds for road purposes it is necessary that the Grundy County Court, on behalf of Jefferson township, have filed with the Clerk of the Court a petition of twenty legal voters of the township, and that two-thirds of the voters voting at such election on the question vote in favor of the issuance of the bonds.

We are of the opinion that the voters residing in both Jefferson township and that portion of the Gees' Creek Road District located in the township should vote on the bond issue, since a qualified voter, under the aforementioned statute, does not forfeit his privileges and duties under the township organization law by also coming within a special road district.

We are further of the opinion that the County Court should not treat that portion of Jefferson township that is not in Gees' Creek Road District as a separate township for all road purposes. Jefferson township and those that come within its operation as a political unit do not lose their identity by also being a part of the special road district.

Yours very truly,

MAX WASSERMAN,
Assistant Attorney General.

APPROVED:

J. E. TAYLOR,
(Acting) Attorney General.

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