

ELECTIONS:
LIQUIDATED COUNTY SCHOOL FUNDS:

County court can consolidate
two or more election precincts
in the county regardless of
township boundaries.

September 8, 1947



Honorable W. C. Frank
Prosecuting Attorney
Adair County
Kirksville, Missouri

Dear Mr. Frank:

This is in reply to your letter of September 3, 1947,
requesting an opinion from this department, which reads as
follows:

"The County Court has called a special
election as provided in the Laws of
Missouri for 1945 found on page 876,
providing for holding elections upon
the proposal to distribute annually
the capital of the liquidated school
fund.

"In Adair County we have ten townships
and twenty-nine election precincts in
said townships and our County Court
plans on having three election precincts
in the entire County for this election
and think that they have the right to do
so by the authority of House Bill No. 155
passed by the 64th General Assembly.

"Query: Does the County Court have power
and authority under House Bill 155 to
consolidate the election precincts into
three, or do they merely have the power
to consolidate two or more precincts in
a township?

"It will be greatly appreciated if you
could give us an opinion at the earliest
opportunity so that we will have it in
time for this election which will be on
October 21."

Section 1 of Senate Bill No. 186 of the 63rd General Assembly, found in Laws of Missouri 1945, page 876, under which the county court called said special election, provides:

"Whenever there shall be presented to the body having in its charge the capital of the county and township school funds of any county or the City of St. Louis a petition, signed by qualified electors of said county or the City of St. Louis equal in number to five per cent of the voters casting a ballot in said county or the City of St. Louis for the office of governor at the last preceding general election at which said office was voted upon, praying that the proposal be submitted to the qualified electors for making annual distribution of the capital of the liquidated school fund, such body shall cause an election to be held upon said proposal."

Section 2 of that act was repealed by House Bill No. 155 of the 64th General Assembly and two new sections were enacted in lieu thereof, to be known as Section 2 and Section 2a. Section 2 now reads, in part, as follows:

"Said proposal shall be submitted at a special election to be held for that purpose within sixty days after the filing of the petition therefor or at the next general election held in such county. Notice of such election shall be given by publication in some newspaper of general circulation within the county or City of St. Louis for not more than two weeks, the last insertion to not be longer than one week prior to the date of such election. The proposal shall be submitted on a ballot in substantially the following form:

For annual distribution of the capital of the liquidated county and township school funds.

Against annual distribution of the capital of the liquidated county and township school funds.

Said ballot shall carry upon it instructions to the voters to strike out the statement not indicating their preference. The voting shall take place at the regular election precincts in the area wherein such election shall be held, unless the election districts or precincts are consolidated as hereinafter provided, and the judges and clerks thereof shall be selected by the board having authority to make such appointments for general elections. Judges and clerks shall be the same in number at each election precinct as is provided by law for general elections, unless reduced in number as provided in Section 2a; and they shall receive the same compensation as may be provided for judges and clerks serving at general elections. * * * *

(Underscoring indicates new matter.)

Section 2a provides as follows:

"The county courts in the several counties of this state in relation to any election upon the proposal to distribute annually the capital of the liquidated school fund shall have the power and authority, in its discretion, to consolidate two or more election districts or precincts in their respective counties, and to use in such election districts or precincts the number of judges and clerks, not to exceed two of each, that it may deem necessary."

The question presented is whether or not the county court is limited, under the provisions of the above section, to the consolidation of two or more election precincts in each township in the county. We believe the language of the statute is quite clear in providing that the county court may, in its discretion, consolidate two or more election precincts in the county for the purpose of said election.

Where a statute is plain and admits of but one meaning, there is no room for construction and it must be given effect as written. The court may not search for a meaning beyond the statute itself. *Thompson v. Siratt*, 95 Fed. 2nd 214; *Swarts v. Siegel*, 117 Fed. 13, 54 C.C.A. 399; *State ex rel. Bell v. Phillips Petroleum Co.*, 349 Mo. 360, 160 S.W. (2d) 704; *St. Louis Amusement Co. v. St. Louis County*, 347 Mo. 456, 147 S.W. (2d) 667; *State ex rel. Jacobsmeyer v. Thatcher*, 338 Mo. 622, 92 S.W. (2d) 640; *Cummins v. Kansas City Public Service Co.*, 334 Mo. 672, 66 S.W. (2d) 920.

If the county court reasonably believes that a small number of election precincts in the county, three in this case, is sufficient for the purpose of a special election, under the provisions of Senate Bill No. 186 of the 63rd General Assembly, Laws of 1945, page 876, as amended by House Bill No. 155 of the 64th General Assembly, the county court is vested with the power and authority to so declare. All election precincts in the county are subject to such consolidation regardless of township boundaries.

Conclusion.

It is, therefore, the opinion of this department that the county court has the authority to consolidate two or more election precincts in the county for the purpose of voting in a special election on the proposal to distribute annually the capital of the liquidated county school funds. Said consolidation may be made regardless of township boundaries.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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