

ELECTIONS: Board of Election Commissioners of Jackson County empowered to alter election precinct boundaries within fire protection district. Cost of election within such fire protection district to be borne by such district.

March 10, 1949

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Mr. John W. Mitchell, Secretary
Jackson County Board of Election Commissioners
Court House
Independence, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department reading as follows:

"I have been instructed by the action of this Board to write you requesting the following opinion.

"We have been advised by the Inter-City Fire Protection District of Jackson County, Missouri, as organized under Act of 1947 General Assembly that they intend to hold an election on April 5th, 1949, for the purpose of electing Directors for their district. Part of this district is outside the corporate limits of Independence and part of it is in a portion of the corporate limits of Independence. They desire to and have asked this Board to consolidate the precincts outside the corporate limits of Independence so as to save money. Independence is conducting their regular City Election on that day so we will not be able to consolidate the precincts within the corporate limits. Therefore, the question is may we consolidate the district outside the corporate limits of Independence for the purpose of this Fire District Election.

"Another question which has arisen is whether the County is liable for the expense of this election or if the Fire District is. * * * * *

Fire protection districts of the type referred to in your letter of inquiry are governed by the provisions of an act found Laws of Missouri, 1947, Volume I, page 432, now appearing as Section 13927.58, et seq., Mo. R.S.A.

Section 13927.58, with reference to elections conducted within such fire protection districts, reads in part as follows:

"Except as otherwise provided in this act, all elections herein provided for shall be held and conducted and the returns thereof made, examined, and cast up in the same manner and in all respects as in elections for state and county officers."

This provision places the conduct of such elections under the jurisdiction of the Jackson County Board of Election Commissioners as established under Article 17, Chapter 76, R. S. Mo. 1939. Section 11858 of such article enumerates said elections as to which the provisions of such article are inapplicable. Among such enumerated elections we do not find those of the nature referred to in your letter of inquiry, and, therefore, conclude that the general provisions relating to the Board of Election Commissioners of Jackson County are applicable.

In this regard your attention is directed to Section 11853, R. S. Mo. 1939, authorizing the Board of Election Commissioners of such county to establish and alter election precincts. This statute reads as follows:

"The board of election commissioners of such counties in this state shall have power to divide any township in their respective counties into two or more election precincts, and to alter such election precincts from time to time as the convenience of the inhabitants may require; and the precincts so established shall be numbered consecutively."

It therefrom appears that adequate authority has been vested in the Board of Election Commissioners of Jackson County to alter the boundaries of those election districts which are encompassed within the boundaries of the fire protection district but are without the corporate limits of

the City of Independence, provided that the boundaries of such new election precinct or precincts are entirely within one township. It will, of course, be necessary that the provisions of Section 11854, R. S. Mo. 1939, be followed in order that the propriety of such order altering such boundaries be established.

It seems to us that it then follows that the Board of Election Commissioners has the authority to consolidate all of such election precincts as may lay within one township but without the corporate limits of the City of Independence. It seems that Section 11853, R. S. Mo. 1939, quoted supra, is but a delegation of authority to establish more than one such election precinct as the convenience of the inhabitants of each township might require, but is not a limitation upon the authority of such Commission to consolidate all or a portion of such election districts. In this regard your attention is directed to Section 11448, R. S. Mo. 1939, applicable generally to all elections wherein recognition is given to the existence of townships forming a single election district.

With respect to the second question you have proposed, we direct your attention to subsection (m) of Section 13927.79, Mo. R.S.A., reading as follows:

"To pay all court costs and expenses connected with the first election or any subsequent election in the district."

Giving due regard to the rule of statutory construction that the General Assembly will not be deemed to have done a useless thing and that meaning must be accorded to every word and phrase found in a statute when possible, and further giving due regard to the prime rule of statutory construction that the intent of the General Assembly must be ascertained and when ascertained must be followed in construing a statute, we reach the conclusion that the inclusion of the quoted portion of this statute clearly discloses a legislative intent that the expenses incident to the conduct of an election within a fire protection district are to be borne by such district.

CONCLUSION

In the premises, we are of the opinion that the Board of Election Commissioners of Jackson County, Missouri, has the

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authority to alter the boundaries of existing election precincts lying within the boundaries of a fire protection district established under the provisions of Section 13927.58, et seq., Mo. R.S.A., and without the corporate limits of a city forming a part of such district, provided that the boundaries of such new election precinct or precincts are entirely within one township. It is our further thought that such power to alter includes the power to consolidate all of the area of such fire protection district as is within one township but without the corporate limits of the City of Independence into one election precinct.

We are further of the opinion that the expenses incident to the conduct of an election held within such fire protection district are to be borne by said district.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WFB:VLM