

SCHOOLS:
JUNIOR COLLEGE DISTRICT:
ELECTIONS:



Section 178.840, RSMo. Supp 1967, does not permit, authorize or direct the Junior College District of Metropolitan Kansas City, Missouri, to hold an election on the first Tuesday in April 1969, for the election of a trustee.

OPINION NO. 147

February 28, 1969

Honorable Harold L. Holliday
Representative, 14th District
2907 Cleveland
Kansas City, Missouri 64128

Dear Representative Holliday:

This official opinion is issued in response to your request for a ruling contained in your letter dated February 18, 1969. The question presented by the enclosure to your letter is:

"Do the provisions of R. S. Mo. 178.840 permit, authorize or direct the Junior College District [Metropolitan Kansas City, Missouri] to hold an election on the first Tuesday in April, that is April 1, 1969, for the election of a trustee from the School District of Kansas City, Missouri, to succeed the trustee whose term would otherwise have expired in November, 1968 had the new law, [Section 162.492, RSMo Supp. 1967] which has now been declared unconstitutional by the said Circuit Court, [16th Judicial Circuit, Judge Richard C. Jensen] not been enacted?"

In substance the facts as set forth in the statement enclosed with your letter are as follows: The Junior College District of Metropolitan Kansas City, Missouri, is a junior college district organized and existing under Revised Statutes of Missouri, Sections 178.770 through 178.890, which sections were first enacted in 1961. There are eight component school districts in the junior college district. The Board of Trustees of the district consists of six members, three of whom are elected from the School District of Kansas City, Missouri, and three from the remaining seven component school districts.

Prior to 1968, the School District of Kansas City, Missouri held biennial elections in even numbered years on the day provided for general elections, being the first Tuesday after the first Monday in November of even numbered years as provided by Section 162.481,

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RSMo 1959. The junior college district held elections for members of its Board of Trustees from the School District of Kansas City, Missouri at the same time as such school district held its elections for members of its board of education.

In 1967, House Committee Substitute for House Bill No. 425 was enacted by the Seventy-Fourth General Assembly of the State of Missouri. This new statute had the effect of repealing Section 162.481, RSMo 1959, as it had previously applied to the School District of Kansas City, Missouri, and substituted new procedures for elections in this district as set forth in Section 162.492, RSMo Supp. 1967. Paragraph 3 of this section provides in pertinent part as follows:

"3. No elections of school directors shall be held in 1968. Thereafter school elections shall be held on the first Tuesday in April in each odd-numbered year, beginning in 1969. . . ."

We understand that in compliance with the new law, the School District of Kansas City, Missouri did not hold an election in 1968. Likewise, no election was held in 1968 for the election of a successor to the trustee of the junior college district whose term would otherwise have expired in November, 1968. It was the position of both the school district and the junior college district that an election would be held on the first Tuesday in April of 1969 for the purpose of electing members of the board of education and a member of the junior college board of trustees.

On January 21, 1969, Judge Richard C. Jensen of the Circuit Court of Missouri, Sixteenth Judicial Circuit, issued an order and entered judgment declaring Section 162.492, RSMo Supp. 1967 and related sections void, illegal, unconstitutional, and of no effect. Furthermore, the court enjoined the Kansas City Board of Election Commissioners and the Jackson County Board of Election Commissioners from taking any action pursuant to Section 162.492, Revised Statutes of Missouri, designed to accomplish the election of directors of the Kansas City Missouri school district. The court further enjoined the secretary of the Kansas City school district from accepting any filings of candidates for membership on the board and declared void any such filings theretofore made by prospective candidates. It is understood that a motion for a new trial in this case is pending in Judge Jensen's court.

On February 6, 1969, the Board of Directors of the Kansas City school district approved the recommendation of its secretary that a special election be called on April 1, 1969, for the purpose of submitting to the voters a proposal to increase the annual rate of taxation beyond the rate authorized by the Constitution of Missouri for school district purposes without voter approval. Thus, it is expected that the school district of Kansas City will hold an election

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April 1, 1969, being the first Tuesday in April, for the special purpose of submitting to the voters a proposition to increase the school district's tax levy.

Section 178.840, RSMo Supp. 1967, sets forth the statutory provisions relating to the holding of elections by junior college districts including the Junior College District of Metropolitan Kansas City, Missouri.

Subsection 1 of this section states:

". . . Regular elections in junior college districts shall be held at the following times:

"(1) If a component district holds its elections on the first Tuesday after the first Monday in April in the years propositions must be voted upon in the junior college district, then elections in the junior college district shall be held at that time in each component district.

"(2) In all other junior college districts elections shall be held on the first Tuesday in April in the years propositions must be voted upon."

Subsection 2 of this section states:

"Elections in junior college districts shall be conducted as provided in subsection 2 of section 178.810, except that in any junior college district wherein by subdivision (2) of subsection 1 elections are held on the first Tuesday in April and all trustees are not to be elected at large, no election shall be held in a component district solely for the purpose of electing trustees of the junior college district and any trustee elected from such a component district whose term would normally expire in a year in which no regular school district election would be held in the component district shall continue to hold office until the next regular election in the component district at which time his successor shall be elected for a term of six years. . . ." (Emphasis supplied)

Subdivision (1) of subsection 1 of Section 178.840, RSMo Supp. 1967, is applicable to junior college districts in which a component district holds its elections on the first Tuesday after the first Monday in April. This provision does not apply to the Kansas City school district as a component district under the law which was ruled

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unconstitutional because such law provides for the election to be held on the first Tuesday in April rather than the first Tuesday after the first Monday in April. Likewise, this subdivision would not apply under the law as it existed before the 1967 amendment because that statute provides for elections in November. Accordingly, the provisions of subdivision (2) of subsection 1 of Section 178.840, RSMo Supp. 1967, apply to the Junior College District of Metropolitan Kansas City, Missouri.

Subsection 2 of the section contains an exception to the rule that elections will be held on the first Tuesday in April by providing that no elections shall be held solely for the purpose of electing trustees of the junior college district and any trustee elected from such a component district whose term would normally expire in a year in which no regular school district election would be held in the component district shall continue to hold office until the next regular election in the component district.

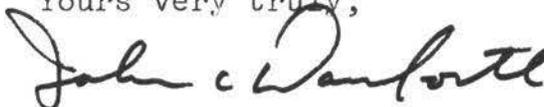
The facts indicate that no regular Kansas City school district election is now scheduled to be held during the year and pursuant to the statutory provision all trustees of the junior college district are to hold office until the next regular election in this component district.

CONCLUSION

It is the opinion of this office that Section 178.840, RSMo Supp. 1967, does not permit, authorize or direct the Junior College District of Metropolitan Kansas City, Missouri to hold an election on the first Tuesday in April 1969, for the election of a trustee.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John E. Park.

Yours very truly,



JOHN C. DANFORTH
Attorney General