

SCHOOL DISTRICTS: Common school districts may change site only at annual meeting.

May 25, 1940

Honorable Conn Withers
Prosecuting Attorney
Clay County
Liberty, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated May 21, 1940, which reads as follows:

"Big Shoal School District No. 63 in Clay County, Missouri now has three school buildings, all used as common schools, and located some distance away from the center of the district. This is a common country school district, and these schools are elementary schools.

It is the desire of the school board and probably most of the voters that these three separate schools be abandoned and a single school erected closer to the center of the district.

Can the situs of these schools be legally changed from the three locations now existing to the single proposed school by a vote of the district at a special meeting called by the board?"

The only provision in our statutes bearing directly on the manner of changing the location of a schoolhouse site is Section 9284, R. S. Mo. 1929, the pertinent part of which is as follows:

"The qualified voters assembled at the annual meeting, when not otherwise provided, shall have power by a majority of the votes cast:

* * * * *

Eleventh--To change the location of schoolhouse site when the same for any cause is deemed necessary; Provided, that in every case a majority vote of the voters who are resident taxpayers of said district shall be necessary to remove a site nearer the center of said district; but in all cases to remove a site farther from the center of said district, it shall require two-thirds of the legal voters who are resident taxpayers of such school district voting at such election."

It is evident from reading the entire school laws that the legislature intended the more important transactions relating to the schools to be decided at the annual elections. An exception to this rule is found in Section 9227, R. S. Mo. 1929, which provides that an increase of the tax levy for maintaining schools or for erecting or repairing schoolhouses may be made at a special meeting held for that purpose.

Section 9228, R. S. Mo. 1929, is a general section authorizing special meetings, and is in part as follows:

"Special school meetings for the transaction of business authorized by this chapter, and not restricted to the annual meeting or otherwise provided for, shall be called by the board when a majority of the qualified voters of the district sign a petition requesting the same, and designating therein the purpose for which said meeting is desired."

In this section the only matters which may be acted upon at a special meeting are those which are not restricted to the annual meeting, as set out in Section 9284.

In Section 9215, R. S. Mo. 1929, we find the following:

"Whenever any district shall select, at the annual or any special meeting, one or more sites for one or more schoolhouses, or the board of education in city, town or consolidated school district, under the provisions of the statute applicable thereto, shall locate, direct and authorize the purchase of sites for schoolhouses, libraries, offices and public parks and playgrounds, or additional grounds adjacent to schoolhouse site or sites, and cannot agree with the owner thereof as to the price to be paid for the same, or for any other cause cannot secure a title thereto, the board of directors, or board of education aforesaid may proceed to condemn the same in the same manner as provided for condemnation of right of way in article 2, chapter 7, R. S. Mo. 1929, and upon such condemnation and the payment of the appraisement, as therein provided, the title of said lot or land shall vest in the board of directors or board of education aforesaid for use in trust for the district and the purposes for which the same was so selected and located. All laws or parts of laws in conflict with this law are hereby repealed."

This section was discussed in Gladney et al. v. Gibson et al., 233 S. W. 271, where the opinion, after quoting section section, states, l. c. 273:

May 25, 1940

"The language of this section clearly indicates that it was the intention of the Legislature that in a common school district the authority to select a schoolhouse site be vested in the resident taxpayers of the district assembled in annual meeting, but that in a city, town or consolidated district such authority be vested in the board of education."

The legislature, in the Laws of Mo., 1939, at page 705, reenacted Section 9282 with a slight amendment. This section authorizes an election in a newly created school district because of division or consolidation to hold a special meeting which is vested with the same powers as the annual meeting. This is for the evident purpose of permitting the new district to choose the location for its schoolhouse, and supports the view above taken by the St. Louis Court of Appeals. This is doubtless the "special meeting" referred to in Section 9215, R. S. Mo. 1929, which relates primarily to condemnation proceedings.

CONCLUSION

In view of the foregoing authority and statutory provisions, it is the conclusion of this department that a common school district may change the location of a schoolhouse site only at an annual election, in compliance with the provisions of Section 9284, R. S. Mo. 1929.

Respectfully submitted,

ROBERT L. HYDER
Assistant Attorney General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

RLH:VC