

POLL BOOKS:
ELECTIONS:
SCHOOLS:

A six-director school district election express statutory language requires that poll books be used and that at the close of

each election one of the poll books shall be transmitted to the clerk of the county court and the other retained in the possession of the judges of election open to the inspection of all persons.

OPINION NO. 246

September 25, 1969

Honorable Melvin D. Benitz
Prosecuting Attorney
Callaway County Court House
Fulton, Missouri 65251

Dear Mr. Benitz:

This is in response to your request for an opinion from this office regarding the following inquiry:

"I would appreciate having your opinion as to whether or not poll books are required to be kept and certified and presented to the County Clerk or the Board of Education in a school election."

Your request for opinion indicates that "the Superintendent of Schools of the North Callaway R-1 School District, purportedly relying on a 1943 Attorney General's Opinion, has refused to submit any poll books either to the County Clerk or to the County Superintendent or County Board of Education as to the results of the election held in that district in April of this year. Your requests indicated that he is however, willing to submit 'tally sheets' or at least a copy of said 'tally sheets' kept by the judges in that election."

In view of the fact that the procedures for conduct of elections vary considerably according to the type of school district involved, and in light of the particular situation which gives rise to this inquiry, we limit our opinion to the matter of the use of poll books in a six-director school district.

The prior opinion of the Attorney General to which you refer is No. 69, rendered to Raymond H. Patterson, under date of April 10, 1943. We enclose a copy of such opinion. The

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pertinent question involved in that instance dealt with a county superintendent election and was phrased as follows:

"Is it legal in a Co. Supt. election where there was no poll books sent out to the district to list the names in, and the clerks just return ballots for the votes to be checked by? Also tally sheets were sent but no book."

Relying upon the express provisions of Section 10610, RSMo 1939, the Attorney General concluded in response to this request, "It is, therefore, the opinion of this office that poll books are not required to be furnished to school districts for elections of county superintendents of schools, but that tally sheets are provided for use in making returns of the voting in such elections." (Emphasis supplied) Section 10610, RSMo 1939, pertaining to the election of county superintendents, provided in pertinent part:

". . .the clerk of the county court shall mail by registered letter to the president or clerk of the board of school directors of the various districts of the county a tally sheet of sufficient size to contain the names of all the qualified voters of such districts, which tally sheets shall, so far as practical, conform to the form of poll books set out in section 11490, article 2, chapter 76, R.S. 1939, relating to general elections, and in making the returns of such election, the tally sheets shall be certified by the chairman and the secretary of such annual school meeting and attested by the members of the board of directors of the district, who may be present."

Present Section 179.020, RSMo Supp. 1967, prescribes the method for conducting an election of the county superintendent. It, as did its predecessors, provides for the use of tally sheets, which shall conform so far as practicable to the form of poll books, rather than for the use of poll books. In this respect, the statutory procedure for the election of the county superintendent differs considerably from that prescribed for elections generally, *Armantrout v. Bohon*, 162 S.W.2d 867 (Mo. 1942). Insofar then as the election of the county superintendent is concerned, no poll books are required to be used, and the election is to be conducted in accord with the express provisions of Section 179.020.

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However, as to six-director school district elections, as distinguished from county superintendent elections, the applicable statutory provisions indicate that poll books shall be used, and that, for the most part, the elections shall be conducted in the same manner as elections for state and county officers. In a six-director school district, such as the North Callaway R-1 District, elections are to be conducted in accordance with the provisions of Section 162.371, RSMo Supp. 1967. Section 162.371 provides in pertinent part:

"2. For each polling place designated by the board under subsection 1, the board shall appoint three judges and two clerks of election. The judges and clerks shall be sworn and the election otherwise conducted in the same manner as elections for state and county officers.

3. All propositions submitted at the annual election may be voted for upon one and the same ballot, and necessary poll books shall be made out and furnished by the secretary of the board; . . .

* * *

5. The result of the election at each polling place shall be certified by the judges and clerks to the secretary of the board of education, who shall record the same, and, by order of the board, shall issue certificates of election to the persons entitled thereto; and the results of all other propositions submitted must be reported to the secretary of the board, and by him duly entered upon the district records." (Emphasis supplied)

Chapter 111 RSMo, containing the general statutory provisions on the conduct of elections, makes numerous references to poll books and the use of poll books. Sections 111.500, 111.510, 111.630, 111.660, 111.670, 111.680, 111.690, and 111.700. Section 111.625 RSMo 1959, states that the provisions of Sections 111.390 to 111.620 do not apply to "school elections." Among the sections dealing with poll books which thus do not apply to school elections by virtue of Section 111.625 are Sections 111.500 (poll books to be furnished) and 111.510 (form of poll book). Section 111.500 makes it the duty of the clerk of the county court for each county to make out and deliver to the sheriff, two poll books for each township, and requires the sheriff of each county to properly deliver them to the respective judges of election. Section 111.510 prescribes the form of the poll book.

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The fact that Section 111.500 does not apply to school elections does not lessen the clear statutory requirement of poll books in a six-director school district election, for the particularized election provisions for a six-director district require that "necessary poll books shall be made out and furnished by the secretary of the board." Section 162.371, RSMo Supp. 1967.

Subsection 5 of Section 162.371, does state that the result of the election is to be certified by the judges and clerks to the secretary of the board of education. But the particularized provisions of that section do not indicate what disposition is to be made of the poll books at the close of the election. Thus we are left with such of the provisions of the general election laws regarding poll books as are applicable to a six-director school district election. Section 162.371 (2), RSMo Supp. 1967. Section 111.690, RSMo 1959, of the chapter on conduct of elections expressly treats this matter as to the disposition to be made of the poll books. That section provides in part as follows:

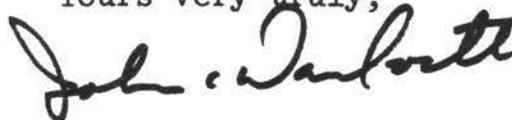
"At the close of each election the judges shall transmit one of the poll books by one of their clerks or by registered mail at their discretion to the clerk to the county court in the county in which the election was held within two days thereafter; . . . the other poll book shall be retained in the possession of the judges of election open to the inspection of all persons;
. . . "

CONCLUSION

Therefore, it is the opinion of this office that in a six-director school district election express statutory language requires that poll books be used and that at the close of each election one of the poll books shall be transmitted to the clerk of the county court and the other retained in the possession of the judges of election open to the inspection of all persons.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Roger C. Bern.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 69
4-10-43, Patterson