



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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JOHN C. DANFORTH
ATTORNEY GENERAL

OPINION LETTER NO. 145

Honorable Dan Harmon
Representative, District 140
Post Office Box 465
Noel, Missouri 64854

Dear Representative Harmon:

This is in response to your request for an opinion from this office as follows:

- "A. Sec. 190.015, R.S.Mo. Cumulative Supplement 1973
Does the description 'Legal Voters' in Line 3, Section 190.015, R.S.Mo. Cumulative Supplement 1973, mean that each petition signer must be a registered voter within the proposed district to be able to affix a valid signature as a legal voter petitioning for the creation of an ambulance district.
- "B. Sec. 190.035, R.S.Mo. Cumulative Supplement 1973
Does the authority granted to County Courts in Line 17, Section 190.035 R.S. Mo. Cumulative Supplement 1973, to 'set forth the election precincts and designate the polling places therefor', allow the County Court, in a proposed special county-wide ambulance district election, to combine townships and precincts, as they see fit, and reduce the number of election precincts from those used in a general election."

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Section 190.015, RSMo Supp. 1973, applicable to counties of less than four hundred thousand population, provides in part:

"Whenever the creation of an ambulance district is desired, a number of legal voters residing in the proposed district equal to ten percent of the vote cast for governor in the proposed district in the next preceding gubernatorial election may file with the county clerk in which the territory or the greater part thereof is situated a petition requesting the creation thereof. In case the proposed district which shall be contiguous is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the area is situated, and the judges of the county court of the county shall set the petition for public hearing. The petition shall set forth:

(1) A description of the territory to be embraced in the proposed district;

(2) The names of the municipalities located within the area;

(3) The name of the proposed district;

(4) The population of the district which shall not be less than two thousand inhabitants;

(5) The assessed valuation of the area, which shall not be less than two million five hundred thousand dollars; and

(6) A request that the question be submitted to the electors residing within the limits of the proposed ambulance district whether they will establish an ambulance district under the provisions of sections 190.005 to 190.085 to be known as '_____ Ambulance District' for the purpose of establishing and maintaining an ambulance service."

In your first question, you inquire whether under the above statute a legal voter as used therein means a registered voter within the proposed district.

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In Scott v. Kirkpatrick, 513 S.W.2d 442 (Mo.Banc 1974), the question was whether signers of initiative petitions proposing amendments to the state constitution were required to be registered voters; and the court held that persons who are qualified but not registered to vote are not acceptable as signers of such initiative petitions. It is our view that a person who signs a petition as provided for in Section 190.015 for the creation of an ambulance district who is otherwise qualified as a legal voter must be a registered voter within the proposed district.

In answer to your second question, Section 190.035, RSMo Supp. 1973, provides as follows:

"Notice of the election shall be given by publication on three separate days in one or more newspapers having general circulation within the territory, the first of which publications shall be not less than thirty days prior to the date of the election, and by posting notices in ten of the most public places in the territory, and in case no newspaper has a general circulation in the territory, the notices shall be so posted in fifteen of the most public places therein, not less than thirty days prior to the date of the election. Each notice shall state briefly the purpose of the election, setting forth the proposition to be voted upon, form of ballot to be used at the election, a description of the territory, set forth the election precincts, and designate the polling places therefor. The notice shall further state that any district upon its establishment shall have the powers, objects and purposes provided by sections 190.005 to 190.085, and shall have the power to levy a property tax not to exceed fifteen cents on the one hundred dollars valuation."

You inquire whether the authority granted to county courts under the above statute gives the court authority to combine townships and precincts, as they see fit, and reduce the number of election precincts from those used in the general election.

Section 111.751, RSMo, provides as follows:

"The county court may in its discretion, in any special election or for the election

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of delegates to a constitutional convention or any constitutional amendment, consolidate two or more election districts or precincts in the county and use necessary judges and clerks in such election districts or precincts."

This statute does not authorize the county court to change the geographical boundaries of the district or precincts, but the court may consolidate two or more as established for this special election.

It is our view that an election to organize an ambulance district is a special election, and the county court would have authority under Section 111.751 to consolidate two or more election districts or precincts in the county and use the necessary judges and clerks in such election districts or precincts.

The courts of this state have held that laws in respect to place of voting are liberally construed to uphold elections where voters have apparent opportunity to vote. State ex rel. Marlowe v. Himmelberger-Harrison Lumber Co., 58 S.W.2d 750 (Mo. 1933).

Yours very truly,



JOHN C. DANFORTH
Attorney General