

AMBULANCE DISTRICTS: Pursuant to Section
CANDIDATES: 190.050.1, RSMo Supp. 1989,
ELECTION OF DIRECTORS: if only one candidate files
ELECTIONS: for the office of ambulance
district director in an
election district, the ambulance district may forego the holding
of an election in that election district.

May 11, 1990

OPINION NO. 80-90

William J. Hannah
St. Charles County Prosecuting Attorney
118 North Main Street
St. Charles, Missouri 63301

Dear Mr. Hannah:

This opinion is in response to your questions asking:

If only one candidate files for office of director in an election district, may an ambulance district forego the holding of an election in that election district? Does Section 190.050.1 RSMo (1986) control the election of directors despite language in Section 115.005 RSMo (1986) which ". . . shall apply to all public elections in the state. . . ."?

We understand your questions relate to an ambulance district located in St. Charles County, a first class noncharter county.

Section 190.050.1, RSMo Supp. 1989, provides:

190.050. Election districts, how established--election of directors-- declaration of candidacy filed, where, when.--1. After the ambulance district has been declared organized, the declaring county commission, except in counties of the second class having more than one hundred five thousand inhabitants located adjacent to a county of the first class having a charter form of government which

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does not contain any part of a city of over four hundred fifty thousand inhabitants, shall divide the district into six election districts as equal in population as possible, and shall by lot number the districts from one to six inclusive. The county commission shall cause an election to be held in the ambulance district within ninety days after the order establishing the ambulance district to elect ambulance district directors. Each voter shall vote for one director from the ambulance election district in which the voter resides. The directors elected from districts one and four shall serve for a term of one year, the directors elected from districts two and five shall serve for a term of two years, and the directors from districts three and six shall serve for a term of three years; thereafter, the terms of all directors shall be three years. All directors shall serve the term to which they were elected or appointed, and until their successors are elected and qualified, except in cases of resignation or disqualification. The county commission shall reapportion the ambulance districts within sixty days after the population of the county is reported to the governor for each decennial census of the United States. Notwithstanding any other provision of law, if the number of candidates for the office of director is no greater than the number of directors to be elected, no election shall be held, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they have been elected. [Emphasis added.]

* * *

The sentence in Section 190.050.1 which is highlighted above by underlining was added in 1986. See Laws of Missouri, 1986, page 695.

Section 115.005, RSMo 1986, to which you refer in your questions, provides:

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115.005. Scope of act.--

Notwithstanding any other provision of law to the contrary, sections 115.001 to 115.641 shall apply to all public elections in the state, except elections for which ownership of real property is required by law for voting.

This section and the sections referred to therein were enacted in 1977 as the "Comprehensive Election Act of 1977." See Laws of Missouri, 1977, page 207. Certain provisions in Chapter 115, RSMo, have been amended subsequent to 1977; however, Section 115.005 has not been amended since 1978. See Laws of Missouri, 1978, page 315.

Ascertainment of legislative intent is the primary goal of statutory construction. O'Flaherty v. State Tax Commission of Missouri, 680 S.W.2d 153, 155 (Mo. banc 1984). Where one statute deals with a particular subject in a general way and a second statute treats part of the same subject in a more detailed way, the more general should give way to the more specific. O'Flaherty v. State Tax Commission of Missouri, supra at 154; Bartley v. Special School District of St. Louis County, 649 S.W.2d 864, 867 (Mo. banc 1983). In addition, if the legislature enacts two laws which are so inimical to each other that both cannot stand, the later statute in point of time controls. Klingensmith v. Missouri Department of Consumer Affairs, Regulation and Licensing, 693 S.W.2d 226, 230 (Mo. App. 1985).

In the situation about which you are concerned, Section 190.050 deals specifically with elections in ambulance districts. The provision in Section 190.050.1 highlighted above by underlining was added in 1986. Chapter 115 deals with elections in a general way and Section 115.005 which provides provisions in Chapter 115 apply to all public elections was last amended in 1978. Based on the rules of statutory construction set forth above, we conclude the general provisions in Chapter 115 give way to the more specific provisions regarding ambulance district elections in Section 190.050.1. Therefore, if only one candidate files for the office of ambulance district director in an election district, the ambulance district may forego the holding of an election in that election district.

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CONCLUSION

It is the opinion of this office that pursuant to Section 190.050.1, RSMo Supp. 1989, if only one candidate files for the office of ambulance district director in an election district, the ambulance district may forego the holding of an election in that election district.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General