

County Free High School, Special Election, Power of Trustees, Expenditure By, etc. Registration for Special Election Not Required. Women May Not Vote, When. Ballot, Form Of.

1. Special election authorizing expenditure for erection of county free high school building must be conducted as a general election and proclamation must be issued.
2. New registration is not required for such special election.
3. Women are not qualified "electors" and cannot vote at such special election.
4. The form of ballot is suggested.

Helena, Montana, July 7, 1908.

Hon. Theo. Lentz,
County Attorney,
Glendive, Montana.

Dear Sir:—

Your letter of the 1st inst. received, in which you request an opinion upon the following questions:

The board of county free high school trustees has certified a levy of four mills to the board of county commissioners. On August 10th the board of county commissioners will make a general levy for taxes for the year 1908. The money received from the said four mill levy, together with the funds now on hand to the credit of the county free high school, will amount to forty thousand dollars, available for the purpose of erecting a county free high school building after paying the current expenses. Immediately after the levy is made by the board of county commissioners on August 10th the county free high school board contemplates requesting the board of county commissioners to call a special election for the purpose of submitting to the electors of the county the following question:

"Shall the board of trustees of the Dawson county free high school be authorized to expend not to exceed forty thousand dollars for the erection of a county free high school building in Glendive?"

Upon the above statement of facts the following questions are submitted:

"First, shall this election be called, advertised and conducted in all respects as a general election?"

Second, must registration agents be appointed for this

special election, the voters registered, and poll books, tally sheets, etc., be prepared?

Third, may women vote at this election?

Four, kindly suggest a form of ballot."

In answer to the first question you are advised that in the event of the county commissioners calling a special election for the purpose of submitting the above question to the electors they should issue an election proclamation containing a statement of the time of election; the place at which the election will be held, the hours at which the polls will be open, and the question to be voted upon, and such proclamation must be published in some newspaper printed in the county, and also must be posted at the place of election in each precinct in the county at least ten days before the election. In other words Sections 1161 to 1163, Political Code, must be complied with.

Evers vs. Hudson, 92 Pac. (Mont.) 462.

In answer to your second question you are advised that no new registration need be had, and that copies of the official register and check lists which were printed or written before and used at the next preceding general election must be used as provided by Sections 1222 and 1223 of the Political Code.

In answer to your third question you are advised that under Section 5 of Article XIII of the State Constitution, a county when it wishes to incur an indebtedness or liability for a single purpose to an amount exceeding ten thousand dollars must have first the approval of a majority of the electors of the county. Therefore, the question is not submitted to the "taxpayers" of the county, but to the "electors," and women are not entitled to vote on such question.

The form of ballot should be substantially as follows:

"For the expenditure of not to exceed forty thousand dollars for the erection of a county free high school building in Glendive."

"Against the expenditure of not to exceed forty thousand dollars for the erection of a county free high school building at Glendive."

Blank squares should be left on the left hand margin of the ballot in which the voter can signify his vote by use of the cross. In other words, Senate Bill No. 93, Laws 1901, page 13, should be complied with in the form of preparing and manner of voting these ballots.

Of course, if the county commissioners do not desire to incur extra expense of a special election the above question can be submitted on a separate ballot of the character indicated above at the general election in November, in which event you would have the benefit of a new registration in the county, and would avoid the expense of a special election.

If the question is submitted at the general election then the general election proclamation issued by the county commissioners should contain

a statement showing that the above question would also be submitted at that election.

Yours very truly,

ALBERT J. GALEN,

Attorney General.