

Elections, Registration Under Primary Law. Registration of Voters, Eight Year Periods. School Boards, Use of Library Fund. Library Fund, Use Of.

Electors who registered in 1906 in counties adopting the primary election law do not have to register again for eight years unless they reside in districts included in a corporate town or city containing at least 1,000 registered voters of the last preceding election.

School districts cannot use the library fund for current expenses except in districts where a free public library is maintained and there is a population of two thousand or more.

Helena, Montana, August 18, 1908.

Hon. W. L. Ford,  
County Attorney Meagher County,  
White Sulphur Springs, Montana.

Your letter of the 14th inst. received, requesting an opinion upon the following questions:

1. In this county the primary election law was adopted and the electors registered under it; the eight year period expired in the year 1906, and every one had to register that year in order to vote; the legislature, at the last session thereof, repealed the primary election law, and provided that the registration of electors should be governed by the law in force in other counties of the state. Will the electors who registered under the primary election law in 1906, be compelled to register this year in order to exercise the right of voting at the coming election?

2. Can the school board in district having a population of less than two thousand, use the library fund for any other purpose than that of purchasing books for library or supplementary work?

In answer to your first question, you are advised that the persons who registered in Meagher county, pursuant to Section 1206 of the Political Code, as amended by Chapter 99, Laws of 1905, were not required to register again for a period of eight years, unless they resided in registration districts included in a corporate town or city which contained at the last preceding state election over one thousand registered voters. Chapter 55, Laws 1907, repealed Chapter 99, Laws 1905, and provided that the registration of electors and elections in all counties in this state heretofore adopting said county election law, shall hereafter be governed and controlled by the general registration and election laws in force and effect in other counties in the state.

The general registration laws, in force and effect in other counties of the state, provide that all persons who registered in 1906, need not register again for eight years, except where they resided in districts included in incorporated towns or cities containing at the last preceding state election over one thousand registered voters.

Inasmuch as the electors of Meagher county were duly registered, according to law, in 1906, in our opinion, such electors, if not residing within the limits of a town or city as above mentioned, need not register again so long as they remain in their county for eight years, and that the registration books used under the primary election laws in 1906, have the same force and effect in determining who need not register this year, as have the registration books in counties which did not adopt such primary law.

In answer to your second question, you are advised that school districts not maintaining a free public library, and having a population of two thousand or more, cannot use the library fund for the payment of current expenses for maintenance of schools. Section 2000 of the Political Code, as amended, (Section 1030, Revised Codes), provides

that, "In school districts other than cities, maintaining a free public library and having a population of two thousand or more, such library funds may, in the discretion of the board of trustees, be used for the payment of current expenses for the maintenance of schools."

The above amendment to said Section 2000 is very ambiguous, and by one construction can be held to mean that in school districts not in cities maintaining a free public library and having a population of two thousand or more, the trustees of the district can use the library fund for other purposes than maintaining a library. But such construction is not in harmony with the policy of public schools, and is clearly not what was intended by the legislature. Prior to the amendment of this section, all school districts had to invest the library fund in books. Then the section was amended, or attempted to be amended, so that in cities maintaining free public libraries, and where a school library would not, therefore, be necessary, the trustees in their discretion could use the fund for current expenses. This latter construction is the one followed by the superintendent of public instruction, and, we believe, is the one that carries out the intention of the legislature in making the amendment.

Yours very truly,  
ALBERT J. GALEN,  
Attorney General.