

Opinion No. 91.

Elections—General Election—Biennial
Election—Cemetery Districts—
Districts, Cemetery.

Held: The qualifications of an elector at an election for the creation of a cemetery district are the same as the qualifications specified for an elector at a biennial general election.

November 3, 1945.

Mr. Oscar C. Hauge
County Attorney
Hill County
Havre, Montana

Dear Mr. Hauge:

You have requested this office to render an opinion as to what constitutes the qualifications of an elector in an election for the creation of cemetery districts as provided for in Chapter 16, Laws of 1945.

Section 5 of Chapter 16 states:

"The board, must in its order, designate whether or not a special election shall be held, or whether the matter shall be determined at the next general election. If a special election is ordered, the board must, in its order, specify the time and place for such election, the voting place, and shall in said order appoint and designate judges and clerks therefor. **The election shall be held in all respects as nearly as practicable in conformity with the general election laws:** and provided, further, that the polls shall be open from eight (8) o'clock A. M. to six (6) P. M., on the day appointed for such election. At such election, the ballots must contain the words 'Cemetery District, Yes' and Cemetery District, No'. The judges of the election shall certify to the board of county commissioners the results of said election." (Emphasis mine.)

The above quoted section is the only section within the act pertaining to the election regulations, and the qualifications of an elector at such an election must be based upon the construction of this section.

In similar acts of the legislature, the act or acts have specifically declared the qualifications of those eligible to vote at such an election, but in the act under consideration, the only intimation of the intent of the legislature is that "the election shall be held in all respects as nearly as practicable in conformity with the general election laws."

Furthermore, under this act, the only question submitted to the voter on the ballot are the words "Cemetery District, Yes" and "Cemetery District, No" so it may be observed that no

question of a tax levy is submitted to the voters. It appears from the reading of the act the legislature intended all those residing in the district that would be eligible to vote at the biennial general election are eligible to vote at such election. If the legislature had intended to limit the eligibility of those entitled to vote at such election, it could easily have done so.

It is therefore my opinion that the qualifications of an elector at an election for the creation of a cemetery district are the same as the qualifications specified for an elector at a biennial general election.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General