

Election How To's per Missouri State Statutes

Fire Protection Districts (FPDs) are organized pursuant to a law passed by the Missouri legislature (“the General Assembly”) but a district receives most of its authority from the people, acting through an election. There is no hard-and-fast reason for this; simply it is a question of political philosophy. The following are the various types of election that a fire protection may hold, with references to the law that authorize them. As a general rule, elections are conducted by the county clerk (or in the metropolitan counties, by the election board), but are ordered to be held by the first district.

The law relating to fire districts is found in Chapter 321 of the state statutes; the law relating to elections is found in Chapter 115.

Fire District Formation

Section 321.120 RSMo (this is the abbreviation for the “Revised Statutes of Missouri”) relates to the original question as to whether or not the fire district shall be incorporated, and sets forth a procedure to be followed for electing the first board members of a fire protection district. This election should also include a question authorizing the application of a property tax. Tax Levy Authorization

There is a number of different provisions in Chapter 321 which relate to the authorization of property and sales taxes to support the district. These all require a vote of the people consistent with the constitutional amendment commonly called the “Hancock Amendment” (Article X, Sections 16 through 23). These statutes are:

- General taxes RSMo 321.240
- Additional taxes RSMo 321.241
- Sales taxes RSMo 321.242, 321.246 and 321.552
- St. Charles County Dispatch RSMo 321.243
- Bonds RSMo 321.260
- Ambulance and Medical Services RSMo 321.225
- Pension Program RSMo 321.240
- Rollback exemption RSMo 321.244

In addition, the following sections apply only in first class counties:

- General revenue and pension RSMo 321.610
- Ambulance and Emergency Medicine 321.620

It is important to point out that Section 321.240 seemingly authorizes the board to, without a vote of the people, impose a 30 cent tax levy. That is the way the section was prior to the adoption of the Hancock Amendment, but the Hancock Amendment now takes precedence. It is recommended that, upon the creation of a fire district, that a separate question be incorporated into the same ballot which would, if approved, authorize a levy not to exceed a certain funding level within the 30 cents. This will insure that there is no question as to the compliance with the Hancock Amendment upon the formation of the fire protection district.

Initiative Elections

The Fire District law is unique among political subdivision laws in Missouri in that there is a broad authorization for voter initiated legislation. This authorization is found at 321.494 RSMo. Please note that Chapter 116 of the state statutes relates to the conduct of initiative campaigns, and most probably would apply to a fire district initiative. Elections to Expand, Consolidate or Dissolve a Fire Protection District

Voter approval is also required to expand, consolidate, or dissolve a fire protection district. These statutes are:

Extend boundaries of fire district RSMo 321.301
Dissolve a fire district RSMo 321.390
Consolidate two fire districts into one RSMo 321.460
Consolidation in First Class County RSMo 321.687

Board Member (Candidate) Elections

Board elections are nonpartisan (which means that the party affiliation of candidates is not shown on the ballot. Board elections are held in April every-other year. Some fire districts, which were originally organized in an odd numbered year, will hold their elections in odd numbered years. Other fire districts, which were originally organized in an even numbered year, will hold their elections in even numbered years. Even though that procedure doesn't make much sense, that is the way it is. The general law relating of Board Elections is 321.210 RSMo.

As a general rule the statute authorizes a board consisting of three or five people, each having a six year term, with the terms staggered so not all directors are elected at one time. (Every once in a while the Missouri General Assembly will tinker with this rule, shortening the term of office for certain disfavored fire protection districts. Your Missouri Association of Fire Protection Districts has consistently opposed such legislation. We believe such tinkering violates Article III, Section 40(21) of the Missouri Constitution and is beyond the power of the General Assembly.)

Candidates for election file to run for office with the fire district's secretary. Because of political shenanigans from the past, the date when candidates can begin to file for the office are now strictly regulated, as is the last day when a candidate can file. You should work to make your district's secretary available at reasonable times so that all candidates get to file who desire to do so. Nothing can look worse in the newspapers, or in court, than an allegation that the board's secretary was hiding from a particular candidate to stop him from filing for election. (And such an allegation can give the disfavored candidate a boost in election prospects, as voters are not generally amused by such stuff.)

A Missouri statute (section 115.124 RSMo) says that if no more than a number of candidates file for office equal to the number of positions available on the board then, following certain procedures, an election is not required. This allows fire protection districts and other units of government to avoid unnecessary election expenses. In other words, if only one vacancy exists on the board of directors and only one candidate files for that position, it is not necessary to follow through with an entire election and incur those costs.

A more difficult question: suppose no one files for the vacancy? Then what happens? In that case the election is held, but the ballot simply has a blank line on it, and voters get to write-in the name of the person they think would be best qualified to hold the job. So obviously, it would save the district money if it could recruit someone to actually file for the position, because with a single candidate for a single vacancy no election would be necessary.

Occasionally a district will find itself with two persons filing for office, and the district will wonder if it can request one of the candidates to withdraw and thereby save money. While candidates are allowed (in certain circumstances) to withdraw from an election, we believe it is improper for a fire district to make such a request. The motto of our state is "let the will of the people be the supreme law" and there is a bias in our law in favor of democracy (as there should be). We think that a judge would order an election to be held if there was any hint that a fire district pressured a candidate not to run. So don't do it.

How Election Costs are Calculated

While elections are conducted by the county clerk (or the county election board) the cost of the election is paid by the various local governments participating in the election. These costs are allocated on the basis of population of the governments involved. Obviously an election with only one polling place is cheaper to hold than an election with 50 different polling places, because there are fewer buildings to rent and fewer

election judges to be paid. But equally obvious is the fact than an election in which 15 local governments participate will generally be cheaper than an election held for only 1 local government, because the first election will be spread over 15 payers. You can generally get an advance estimate of the cost of the election from the county election authority.

When Elections are Held

Missouri law permits elections to be held only on certain days. These days are always a Tuesday (for no reason except for history). In general elections are held on the “first Tuesday after the first Monday” in a particular month. Some elections may only be used for specific purposes, as shown below. The election days are:

- February for bond issues, a few limited purposes, and only for primary elections in certain cities that have partisan election for membership on the city council. St. Louis city is an example.
- March only for primary elections in some other cities that have partisan elections for membership on the city council. Jefferson City is an example.
- April the “municipal election day” and the general date for all fire district candidate elections. This date is usually the cheapest one for an election.
- August in even numbered years, for the Primary Election for state candidates and for special elections on other subjects. In odd numbered years this date is available for special elections.
- October for school districts only. Designed in case the voters have turned down a tax levy in August, so the school district can try again before the tax bills get sent out.
- November in even numbered years, the General Election for state candidates and special elections on other subjects. In odd numbered years this date is available for special elections.

Decisions by Majority Vote

Election decisions are generally made by “majority vote.” This means a majority of those who choose to go vote. A tie vote means the measure lost, or that no candidate was elected.

In elections where the vote differs by less than 1% there is an automatic recount.

In other elections, the election is final once the results are officially certified by the county verification board or the county election board. Generally this certificate happens within 14 days after the election day, and is usually a formality because the unofficial election results are clear.

After an election, there is a 30-day period when someone who is unhappy with the election can “contest” the results by filing a lawsuit. Not everyone who is unhappy, however, has standing to maintain a lawsuit. Generally the lawsuit must come from an opposing candidate (in the case of a candidate election) or a taxpayer (in the case of some other issue). After the 30 day period has expired no one can contest the results.

In bond elections a higher majority for approval is required, because of Article VII, Section 26(d) of the Constitution. Bond issues require a 4/7 majority (which is actually 4/7 plus 1 additional yes vote) approval if the election is held in April, or in August in even-numbered years, or in November in even-numbered years. Otherwise a 2/3 majority (actually 2/3 plus 1 additional yes vote) is required.

In many fire districts the new board members are sworn into office at the April meeting of the fire district board. Technically speaking, the election results are still unofficial. A purist might insist that the fire district board should wait until May when the official results are in. Almost always the official results will agree with the unofficial one, so almost always it doesn’t matter which procedure is followed. The April date has the virtue of allowing the departing board member to stop coming to meetings earlier, and allow the victorious candidate to get immediately to work. The May date just may be a little safer to follow. However, the tradition that has been followed in your district ought not to be changed simply because of these relatively unimportant considerations.

Who Gets to Decide Which Date to Use?

For candidate elections the General Assembly has decided that the April election date will be used. For tax issues, bond proposals, consolidation or annexation proposals, and for similar questions the Fire District Board of Directors gets to decide which date to use.

Who Gets to Vote?

Residents, who are registered to vote. As a general rule a person is a resident if (1) he says he is and (2) he sleeps there. Persons who own property within the fire district but who live elsewhere (i.e., “non-resident taxpayers”) do not get to vote in fire district elections.

Where to Go for More Information

The county election authority can answer almost every question. You should consult with that your county clerk or election board if you require additional information. Also, the Missouri Secretary of State has general supervisory control over the conduct of elections and the “Director of Elections” in that office can also provide assistance. Much election information is found on the web site for the Secretary of State.