



**THE ATTORNEY GENERAL
OF TEXAS**

GROVER SELLERS

ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable D. Richard Voges
County Attorney
Wilson County
Floresville, Texas

Dear Mr. Voges:

Opinion No. 0-7226

Re: Whether or not it is the mandatory duty of a county through its proper officials to hold the election on November 7, 1946, on the constitutional amendment to be submitted upon that date.

Your request for an opinion upon the above subject matter is as follows:

"With further reference to the election to be held on Thursday November 7th, after the General Election on Tuesday November 5th, on a Constitutional Amendment, your opinions indicate that it is mandatory for the County Judge to order and issue notice of such election and that if no such notice is given the election would nevertheless be valid.

"Now then, the County through the County Judge or Commissioner's Court must furnish the supplies for such election; is it mandatory on the part of the County Judge to furnish such supplies and in the event such supplies are not so furnished no election can be held; furthermore, if the County Judge or Commissioner's Court refuse to appoint election officers and refuse to pay the same no election can be held.

"The question I want answered, is it mandatory for a County, through its proper officials to hold the election on November 7th on the Constitutional Amendment."

Your question should be answered in the affirmative.

Section 1 of Article XVII of the Constitution, relating to the mode of amending the Constitution, is as follows:

"The Legislature, at any biennial session, by a vote of two-thirds of all the members elected to each House, to be entered by yeas and nays on the journals, may propose amendments to the Constitution, to be voted

upon by the qualified electors for members of the Legislature, which proposed amendments shall be duly published once a week for four weeks, commencing at least three months before any election, the time of which shall be specified by the Legislature, in one weekly newspaper of each county, in which such a newspaper may be published; and it shall be the duty of the several returning officers of said election, to open a poll for, and make returns to the Secretary of State, of the number of legal votes cast at said election for and against said amendments; and if more than one be proposed, then the number of votes cast for and against each of them; and if it shall appear from said return, that a majority of the votes cast, have been cast in favor of any amendment, the said amendment so receiving a majority of the votes cast, have been cast in favor of any amendment, the said amendment so receiving a majority of the votes cast, shall become a part of this Constitution, and proclamation shall be made by the Governor thereof."

This Section itself by necessary implication -- if not in express language -- makes it the mandatory duty for each county in the State, through its proper officials, to hold the election on the day named by the Legislature in submitting the amendment.

Our conclusion is accentuated by Article 2923 et seq of the statutes governing elections.

You are accordingly advised as above indicated.

Very truly yours

ATTORNEY GENERAL OF TEXAS

s/ Ocie Speer

OS-MR/cg

By

Ocie Speer
Assistant

APPROVED MAY 25, 1946
s/ Carlos C. Ashley
FIRST ASSISTANT ATTORNEY GENERAL

APPROVED opinion committee By BWB, Chairman