

**OPINION
60-190**

September 15, 1960 (OPINION)

SCHOOL DISTRICTS

RE: Bond Issue Elections - Qualifications of Voters

Re: Eckelson Common School District No. 45,

Eckelson, Barnes County, North Dakota

This is in reply to your letter of September 13, 1960, in regard to persons voting at a prospective bond issue election in the above named school district.

You inform us that there are many people who have property within the school district who have their land in soil bank and in some cases live in a larger town outside of the school district or in some instances in another state. Your question is stated as: "In the event a person otherwise qualified to vote owns property within a school district, but who has his residency out of the district, would the person owning this property be able to vote in the school election?"

The appropriate statutory provision, section 21-0307 of the 1957 Supplement to the North Dakota Revised Code of 1943, requires a vote of a given percentage of "all the qualified voters of such municipality." There is no further statutory provision prescribing qualifications for voters at school district bond elections.

Qualifications of voters generally are prescribed by section 121 of the North Dakota constitution which provides:

Every person of the age of twenty-one years or upwards, belonging to either of the following classes who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be qualified elector at such election. First, citizens of the United States; second, civilized persons of Indian descent who have severed their tribal relations two years next preceding such election."

On this basis it would appear that the qualification for voting at school district bond elections in this state is on the basis of residence rather than on the basis of property ownership. The fact that a farmer has removed from a school district for a special or temporary purpose, having placed his land in soil bank in the interim (See: subsection 1 of section 54-0126 of the North Dakota Revised Code of 1943) without having the requisite intent to make the new location his residence (See: subsection 7 of section 54-0126 of the North Dakota Revised Code of 1943), would not necessarily make the new and temporary location his residence, and remove his voting rights at the place where his farm is located.

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Attorney General