

**COLLEGES AND UNIVERSITIES: Community College District – Nomination of candidates for member of board of trustees – Election and terms of members of board of trustees.**

In a community college district formed pursuant to the provisions of Act 188, P.A. 1955, consisting of the entire territory of a single county, 6 members of the board of trustees are to be elected by the electors, and the board of trustees may in its discretion appoint 3 additional members to the board of trustees.

The terms of office of the first board of trustees elected on August 7, 1962, of a community college district consisting of the entire territory of a single county, expire on July 1, 1963.

At the biennial spring election to be held on April 1, 1963, 6 members of the board of trustees are to be elected and candidates may file nominating petitions for terms expiring 2 years, 4 years and 6 years, respectively, after July 1, 1963.

Act 188, P.A. 1955, contemplates the nomination of candidates by petitions. No primary election is required. Candidates may be nominated by petitions signed by not less than 50 nor more than 200 qualified and registered electors residing within the county forming the community college district. Nomination petitions must be filed at least 30 days prior to the date of the biennial spring election.

630225.1

No. 4131

February 25, 1963.

Hon. John T. Bowman  
State Senator  
The Capitol  
Lansing, Michigan

On August 7, 1962 the electors of Macomb County approved the organization of a community college district. See opinion of the Attorney General No. 4109, dated October 31, 1962. This office understands that the Macomb County Community College District is coterminous with the boundaries of Macomb County.

You have requested my opinion in answer to the following questions as they relate to the Macomb County Community College District:

1. In a community college district formed pursuant to the provisions of Act 188, P.A. 1955, as amended, consisting of the entire territory of a single county, how many trustees are to be elected by the electors and how many, if any, by the board of trustees?
2. When do the terms of office of the first board of trustees expire, and do they all expire at the same time?
3. How many trustees are to be elected at the biennial spring election to be held April 1, 1963, and when do the terms of office expire?
4. Does the law require a primary election for the nomination of candidates for the office of member of the board of trustees of the community college district?

5. If candidates may be nominated by petition, how many signers are required to qualify a candidate for the office of member of the board of trustees of a community college district?

6. When are nominating petitions required to be filed with the county clerk?

Act 188, P.A. 1955, as amended, being C.L.S. 1956, § 390.871, et seq.; M.S.A. 1961 Cum. Supp. § 15.615 (11) et seq., provides for the creation of community college districts to consist of one [two] or more contiguous counties or contiguous parts of counties.

Section 5 of Act 188, P.A. 1955, supra, provides in pertinent part as follows:

"The community college district shall be directed and governed by a board of trustees, consisting of 6 or more members elected on a nonpartisan basis. \* \* \* If the community college district consists of 1 county, 6 members shall be elected at large by the electors of the county. \* \* \* The board of trustees of any community college district, in its discretion, may appoint to the board of trustees, 3 additional members from among the electors of the counties or parts of counties forming a part of the community college district for such terms and upon such conditions as the board of trustees may determine. \* \* \*

"The term of office of the members elected to the first board of any community college district shall be for the period of time remaining until July 1 following the election of the succeeding members at the next biennial spring election. The terms of office of members elected at the first biennial spring election after the effective date of this act, and terms of office of the members elected from any county, part of county, or school district which is annexed to a community college district shall be arranged so that of the members elected from each county within the community college district, or elected at large from a community college district composed of more than 1 school district but comprising less than an entire county, 1/3 shall be elected for a period of 2 years, 1/3 shall be elected for a period of 4 years, and 1/3 shall be elected for a period of 6 years. If the number of members to be elected from individual school districts divided by 3 leaves 1, then that one shall be elected for 2 years. If it leaves 2, one of them shall be elected for 2 and one for 4 years. Thereafter, at the next biennial spring election immediately preceding the expiration of their respective terms of office, their respective successors shall be elected for a period of 6 years.

"\* \* \*"

Consideration must also be given to Section 5a of the act, which concerns the method of election of board members. In pertinent part this section provides as follows:

"(4) Candidates for members of the first board and succeeding boards of each community college district, except as otherwise provided in this act, shall be nominated by petition signed by not less than 50 nor more than 200 qualified and registered electors residing within

the county, or part of the county, or school district from which the member is to be elected. \* \* \*

“(5) The petition shall be filed with the clerk of the county or with the secretary of the board of education of the school district not later than 30 days prior to the date specified for holding an election for members of the board of a community college district as provided in paragraphs 11 and 12 of this section, and shall be substantially in the form required for the nomination of candidates in a primary election as provided by section 544 of Act No. 116 of the Public Acts of 1954, as amended, being section 168.544 of the Compiled Laws of 1948, excepting it shall contain no reference to any political party.”

1. In ascertaining the meaning of a statute the primary duty of a court is to determine the intention of the legislature in enacting the statute, and the statute should be so construed as to give meaning to all of its provisions. *Crawford v. School District No. 6*, 342 Mich. 564.

From a reading of Section 5 of the community college district act, it is clear that the legislature intended that in a community college district formed from the territory consisting of 1 county, 6 members shall be elected at large by the electors of the county. It is also clear from a plain reading of the statute that the legislature intended that the board of trustees of any community college district, in its discretion, may appoint to the board of trustees 3 additional members from among the electors of the counties or parts of counties forming a part of the community college district for such terms and upon such conditions as the board of trustees may determine.

Therefore, in answer to your first question, it is my opinion that in a community college district made up of the entire territory of a single county, 6 trustees shall be elected at large by the electors of the county. The elected board of trustees may in its discretion appoint 3 additional members from among the electors of the county.

2. The legislature has specified that the term of office of the members elected to the first board of trustees shall be for the period of time remaining until July 1 following the election of the succeeding members at the next biennial spring election.

The first board of trustees of the Macomb County Community College District was elected on August 7, 1962. See O.A.G. No. 4109, *supra*.

It must follow that the term of office of the members elected to the first board of trustees of that community college expires on the 1st day of July, 1963, and under the clear and unambiguous language of the statute all terms expire at the same time.

3. From a reading of the statute there can be no question but that 6 trustees shall be elected at the biennial spring election to be held in April, 1963, as members of the board of trustees of the Macomb County Community College District. By its plain terms the statute requires that 2 members be elected for a term expiring 2 years after July 1, 1963, 2 members for a term expiring 4 years after July 1, 1963, and 2 members for a term expiring 6 years after July 1, 1963. Persons seeking nomination as member of the board of trustees of the Macomb County Community

College District must specify in their nomination petitions the term of office they seek.

4. The legislature in providing for nomination petitions under Section 5a (4) of the statute, supra, made unnecessary the holding of any primary election. The two candidates receiving the highest number of votes for the office of member of the board of trustees for terms expiring 2 years, 4 years and 6 years respectively, shall be declared elected to the respective offices in accordance with Section 5a (14) of the act, supra.

Therefore, it is my opinion that candidates for the office of member of the board of trustees of the Macomb County Community College District are to be nominated by petition only.

5. In order for candidates to be nominated by petitions to qualify as members of the board of trustees of a community college district at the biennial spring election held in April, 1963, the statute requires, in accordance with Section 5a (4), supra, that candidates be nominated by petitions signed by not less than 50 nor more than 200 qualified and registered electors residing within the county forming the Macomb County Community College District.

6. Section 5a (5) of the act, supra, requires that nomination petitions be filed with the county clerk not later than 30 days prior to the date specified for holding an election for members of the board of trustees of the community college district. Since the biennial spring election to be held in April 1963, is set for April 1, 1963, nomination petitions must be filed at least 30 days prior to April 1, 1963.

FRANK J. KELLEY,  
*Attorney General.*

630301.1

**TAXATION:** Sales Tax.

**OPTOMETRY:** Furnishing of lenses by optometrist.

**PHYSICIANS AND SURGEONS:** Professional services by ophthalmologist.

A licensed optometrist or ophthalmologist who examines the eyes of a patient, prescribes lenses for and furnishes the lenses as part of his contract for professional services is not subject to the provisions of the Michigan Sales Tax Act, the furnishing of lenses not being a sale of tangible personal property.

No. 3632

March 1, 1963.

Hon. Adam Sumeracki  
State Representative  
Lansing, Michigan

You have requested my opinion in answer to the following question:

Are the lenses or prisms or other mechanical devices furnished to a patient by a licensed ophthalmologist or optometrist subject to taxation under the Michigan Sales Tax Act, as amended?