

within the district. Such elections must be held annually or biennially, as determined by the board of education. The statutory provision cannot be enlarged by implication to allow an election to be held triennially. See *Taylor v. Michigan Public Utilities Commission*, 217 Mich. 400 (1922).

There appears to be a void in Sec. 107 of the School Code of 1955 because the Constitution bars a biennial spring state election. This matter should be brought to the attention of the Michigan legislature for appropriate action.

Therefore, it is the opinion of the Attorney General that a board of education of a third class school district, which has fixed its regular biennial elections to be held at the same time as the biennial spring state election, is without power to hold its regular elections at the same time as the city elections in April of 1966.

FRANK J. KELLEY,  
*Attorney General.*

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COUNTIES: Tax Allocation Board.  
TAXATION: County Tax Allocation Board.

The county tax allocation board must be composed of six members.

No. 4372

February 22, 1965.

Dr. Lynn M. Bartlett  
Superintendent of Public Instruction  
Lansing, Michigan

You have requested my opinion on the following question:

"Does Section 5 of Act 62, Public Acts of 1933, as last amended by Act No. 5, Public Acts of 1964, require a county tax allocation board of six members?"

Act 62, Public Acts of 1933, as amended, being C.L. 1948 § 211.201 et seq.; M.S.A. 1960 Rev. Vol. § 7.61 et seq., is known as the property tax limitation act.

Section 5, as last amended by Act 5, P.A. 1964, creates a county tax allocation board which shall be composed of

"the county treasurer; the chairman of the board of county auditors if there be such a board, and if not, the chairman of the finance or ways and means committee of the board of supervisors of the county; the intermediate school district superintendent or his representative; 1 member of a school board of a school district in the county maintaining 12 grades of school, who shall be selected by the judge or judges of probate of the county, except that in counties containing 1 or more municipal corporations having a population of 10,000 or more, such member shall be a resident of the county and selected by the board of education of the constituent school district, not an intermediate school district, at least ½ of the area of which lies in the county, and

which has the largest number of children in the whole district between the ages of 5 and 20 according to the latest annual school census; 1 resident of a municipality within the county who shall be selected by the judge or judges of probate of the county, except that in counties containing 1 or more municipal corporations having a population of 10,000 or more, such member shall be a resident of such a municipality, except that in counties in which are located municipalities subject to the provisions of this act, such member shall be an official of 1 of such municipalities, and if there be but 1 such municipality within said county, then such member shall be selected by the governing body of such municipality, either from its own members or its municipal officers; and 1 member, not officially connected with any local unit, who shall be selected by the judge or judges of probate of the county."

The legislative intent in creating a county tax allocation board and providing its membership must be ascertained from the language used in the statute. *Romeo Homes, Inc. v. Commissioner of Revenue*, 361 Mich. 128 (1960).

A reading of the statutory language employed in Sec. 5 of the act reveals that the legislature has enumerated the membership of the county allocation board to be composed of:

1. The county treasurer.
2. The chairman of the board of county auditors, if there is such a board, and if not, the chairman of the finance or ways and means committee of the board of supervisors of the county.
3. The intermediate school district superintendent or his representative.
4. One member of a school board of a school district in the county maintaining 12 grades of school.
5. One resident of a municipality within the county to be selected by the judge or judges of probate, except that in counties containing 1 or more municipal corporations having a population of 10,000 or more, such member shall be a resident of such a municipality, except that in counties in which are located municipalities subject to the provisions of the act, such member shall be an official of 1 such municipality in such county, to be selected by the governing body of such municipality, either from its own members or its municipal officers.
6. One member, not officially connected with any local unit.

The Attorney General has ruled in O.A.G. 1945-46, page 684, that the county tax allocation board must consist of six members even though a particular county does not have within it a municipality with a population of 10,000 or more.

Therefore, it is the opinion of the Attorney General that Sec. 5 of the property tax limitation act, *supra*, as last amended by Act 5, P.A. 1964, requires that a county tax allocation board be composed of six members, to be selected according to the provisions found therein.

FRANK J. KELLEY,  
*Attorney General.*