

ELECTIONS:
REGISTRATION:

1. It is mandatory that registration of voters in counties that adopted voter registration under Chapter 114, RSMo, be commenced by September 15 following the election at which voter registration was adopted. 2. Counties which have adopted voter registration under Chapter 114, RSMo, prior to September 28, 1973, will not be reimbursed by the state for cost of registration under Section 22 of SSHCSHB No. 20. 3. Only persons who are registered voters in Cole County are eligible to vote on November 6, 1973, on the formation of a county-wide sewer district.

OPINION NO. 274

September 5, 1973

Honorable James F. McHenry
Prosecuting Attorney
Cole County Courthouse
Jefferson City, Missouri 65101



Dear Mr. McHenry:

This is in response to your request for an opinion from this office as follows:

"Section 114.040 RSMo 1969, provides that there shall be a registration of all qualified voters in all counties adopting this chapter beginning on the 15th day of September next following the date upon which this chapter is adopted. Senate Substitute for House Committee Substitute for House Bills Nos. 20, 71, 94 and 97, effective September 28, 1973, repeals many sections of Chapter 114 including Section 114.040, which gives rise to several questions:

1. Is it mandatory that the county clerk of Cole County, Missouri, begin registering voters outside the corporate limits of Jefferson City on or before September 15, 1973?
2. If the county clerk of Cole County, Missouri, does commence the registration of voters outside of the corporate limits of Jefferson City prior to September 28, 1973,

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but does not complete the registration of such voters prior to that date, will Cole County be reimbursed for the cost of registering the voters after September 28, 1973, as provided in Section 22 of S.S.H.C. S.H.B.'s Nos. 20, 71, 94 and 97?

3. If the county clerk is not required to commence registration of voters outside of Jefferson City on or before September 15, 1973, and does not in fact register any such voters prior to September 28, 1973, will Cole County be reimbursed for registering voters outside the corporate limits of Jefferson City after September 28, 1973, as required by S.S.H.C. S.H.B.'s Nos. 20, 71, 94 and 97?
4. Is it necessary that voters residing outside of the corporate limits of Jefferson City be registered either under Chapter 114 or under S.S.H.C.S.H.B.'s Nos. 20, 71, 94 and 97 in order to vote on an election for the formation of a county-wide sewer district to be held November 6, 1973, as ordered by the Circuit Court of Cole County on August 6, 1973?
5. In any event, after September 28, 1973, will it be necessary to re-register voters residing within the corporate limits of Jefferson City who have previously registered under Chapter 116, RSMo 1969?

"Cole County is a second class county which contains a city of over 10,000. We previously have been operating under the provisions of Chapter 116 RSMo relative to the registration of voters. At the November, 1972, general election, county-wide voter registration was approved. No voters in the county at large have as yet been registered under the applicable provisions of Chapter 114 RSMo."

Your questions will be considered in the order in which they were submitted.

In answer to your first question whether it is mandatory that the county clerk of Cole County begin registering voters outside

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the corporate limits of Jefferson City on or before September 15, 1973, it is our opinion that it is mandatory.

You state that at the November 1972 general election county-wide voter registration was approved in Cole County.

Section 114.040, subsection 1, RSMo, provides as follows:

"1. There shall be a registration of all qualified voters in all counties adopting this chapter beginning on the fifteenth day of September next following the date upon which this chapter is adopted, and the registration of voters shall be governed by the provisions of this chapter, except this chapter does not apply where:

(1) A city in the county has ten thousand or more inhabitants and already has a system of registration under chapter 116 or 118, RSMo, but applies only to the parts of the county as lie outside the corporate limits of the city; nor

(2) A county has more than two hundred thousand inhabitants and already has a system of registration under chapter 113, RSMo; nor

(3) A county contains a city or part of a city of more than four hundred thousand inhabitants and already has a system of registration under chapter 119, RSMo."

Although this statute will be repealed by Senate Substitute for House Committee Substitute for House Bill No. 20, which becomes effective September 28, 1973, it is effective now and will remain effective until September 28, 1973. It is our view that it is not a discretionary matter for the county clerk to determine or postpone the date of registration of qualified voters under this section. In Opinion No. 265, 1973, this office held that persons registered under Chapter 114, RSMo, are not required to re-register after September 28, 1973, under the provisions of SSHCSHB No. 20. Therefore, we do not have to decide whether registration would be required in Cole County if registration under Chapter 114 became invalid on September 28, 1973.

In answer to your second question as to whether Cole County will be reimbursed for the cost of registering the voters after September 28, 1973, as provided in Section 22 of SSHCSHB No. 20, it is our opinion the county will not be reimbursed.

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Section 22 of SSHCSHB No. 20 provides as follows:

"The county court shall pay the expenses of registration incurred under the provisions of this act; and within one year immediately following the effective date of this act, the state shall pay to each county not having voter registration on the effective date of this act and in which registration of voters is required by the provisions of this act, in order to defray the initial costs of registration in such counties, a sum equal to one dollar times the number of votes cast for governor in the county during the next preceding gubernatorial election; provided however, that the number of votes cast in cities having voter registration in counties not having voter registration shall not be used in calculating the amounts due to counties not having voter registration."
(emphasis added)

Under this section, only counties which do not have voter registration on September 28, 1973, and in which registration of voters is required by the provisions of SSHCSHB No. 20 will be reimbursed by the state as provided therein for the initial cost of voter registration. As heretofore stated, Cole County has, at this time, and will have on September 28, 1973, county-wide voter registration even though the voters have not been required to register before September 15, 1973.

We believe our answers to your first and second questions answer the third question.

In answer to your fourth question as to whether it is necessary that voters residing outside the corporate limits of Jefferson City be registered either under Chapter 114 or under SSHCSHB No. 20 in order to vote in an election for the formation of a county-wide sewer district to be held November 6, 1973, it is our opinion that they will be required to be registered. As pointed out above, in Opinion No. 265, 1973, we ruled that voters who are registered under Chapter 114 or 116, RSMo, on September 28, 1973, are not required to re-register but will be considered as registered voters under the provisions of SSHCSHB No. 20.

Section 2, subsection 1 of SSHCSHB No. 20 provides as follows:

"No person shall be permitted to vote in any election unless he is duly registered and unless his name thereby appears in both the

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county record and the precinct record for the county and precinct in which he resides."

It is our opinion that under this section no person can vote in any election covered by this act unless he is duly registered at the time he offers to vote.

Section 114.070, RSMo provides as follows:

"At least five days prior to the initial registration under this chapter, the county clerk shall publish a notice of registration, giving the dates, hours and places of registration, in a newspaper of general circulation published in the county."

Under such section, five-day notice is given by the county clerk of the dates, hours and places of registration prior to the initial registration in a county which has adopted the provisions of Chapter 114.

Section 5 of SSHCSHB No. 20, provides as follows:

"Except as provided in section 6 and in subsection 2 of this section, registration shall be conducted at the office of the county clerk throughout the entire year, on the usual business days and at the regular office hours.

"No person shall be eligible to vote unless he has registered before 5:00 p.m. on the fourth Wednesday before the election is to be held."

Section 6 of SSHCSHB No. 20, provides as follows:

"The county clerk may designate additional places in the county, at which people may register within the time for registration. If any additional place of registry is established, the county clerk shall place a deputy in charge thereof. Registration shall be held at each additional place of registry at the times and hours the county clerk designates. The time and place of registration shall be published in at least two weekly or daily newspapers published in the county, at least one of which shall be of general circulation within the area of the additional place of registry, at least ten and not more than thirty days prior to the time of registration."

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Under Section 5 of SSHCSHB No. 20, persons in Cole County who have not registered under provisions of Chapter 114, RSMo, may do so at any time on or after September 28, 1973, in the office of the county clerk on the usual business days and at the regular office hours up until the fourth Wednesday prior to the date of the election.

Under Section 6 of SSHCSHB No. 20, the county clerk may designate additional places in the county for registration of voters. Notice of the time and place of registration of such additional places shall be by publication at least ten days and not more than thirty days prior to the time of registration and persons who have registered before 5:00 p.m. on the fourth Wednesday before the election is to be held shall be eligible to vote at such election.

It is clear that under the provisions of Section 114.100, RSMo and Section 4 of SSHCSHB No. 20, the number of registration officers necessary to register voters may be employed. The Cole County Clerk will therefore be able to provide for registration of all voters outside of Jefferson City who wish to register before registration closes for the special election November 6, 1973.

We do not therefore have to rule on the question whether voters would be required to be registered if an election were scheduled to be held on a date which would occur before it would be possible for the voters to be registered.

In answer to your fifth question whether it will be necessary to re-register voters residing within the corporate limits of Jefferson City who have previously registered under Chapter 116, RSMo, it is our opinion that they will not be required to re-register. See Opinion No. 265, issued August 30, 1973.

We are enclosing herewith Opinion No. 143, issued by this office on May 2, 1973, holding that voter registration may begin at any time after publication of adoption of county local option voter registration under Chapter 114, RSMo.

CONCLUSION

It is the opinion of this office that:

1. It is mandatory that registration of voters in counties that adopted voter registration under Chapter 114, RSMo, be commenced by September 15 following the election at which voter registration was adopted.
2. Counties which have adopted voter registration under Chapter 114, RSMo, prior to September 28, 1973, will not be reimbursed by the state for cost of registration under Section 22 of SSHCSHB No. 20.

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3. Only persons who are registered voters in Cole County are eligible to vote on November 6, 1973, on the formation of a county-wide sewer district.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 265
8-30-73, LeCompte

Op. No. 143
5-2-73, Fleming