

GENERAL ASSEMBLY: Board of Election Commissioners of
SENATORS: St. Louis City must redistrict
REPRESENTATIVES: senatorial and representative
LEGISLATIVE DISTRICTS: districts. Districts may have same
boundaries as at present.

August 29, 1951

9-4-51

Mr. Paul C. Calcaterra
Chairman
Board of Election Commissioners
City of St. Louis
208 South Twelfth Boulevard
St. Louis 2, Missouri



Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department, and reading as follows:

"As you know, under the recent reapportionment of State Senatorial and Representative Districts the City of St. Louis retains its present quota of seven Senatorial Districts and eighteen Representative Districts.

"We are now confronted with two possible courses of action, namely whether to redistrict the City into new districts, or merely re-certify existing lines. To help us reach a decision we would appreciate your clarification of the law.

"Section 7 of Article III of the Constitution of Missouri and Section 22.050, R.S. 1949, contemplate that the population of no district shall vary from the quotient provided by more than one-fourth thereof. The population figures furnished us by the United States Census Bureau show that no district, as now constituted, varies by more than one-fourth from the quotient. Are we, therefore, prohibited from drawing new lines,

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or may we do so at our discretion so as to more nearly equalize the population of the districts into compact territory?

"In the event of a ruling that we do not have authority to draw new lines under the circumstances, would reaffirmation of existing boundaries be sufficient compliance with the provisions of the law, particularly Section 22.030?"

Section 7, Article III of the Constitution of Missouri, provides as follows:

"Within sixty days after this Constitution takes effect, and thereafter within sixty days after the population of the state is reported to the President for each decennial census of the United States, the state committee of each of the two political parties casting the highest vote for governor at the last preceding election shall submit to the governor a list of ten persons, and within thirty days thereafter the governor shall appoint a commission of ten members, five from each list, to reapportion the thirty-four senators and the numbers of their districts among the counties of the state. If either of the party committees fail to submit a list within such time the governor shall appoint five members of his own choice from the party of such committee. Each member of the commission shall receive fifteen dollars a day, but not more than one thousand dollars. The commission shall reapportion the senators by dividing the population of the state by the number thirty-four, and the population of no district shall vary from the quotient by more than one-fourth thereof. The commission shall file with the secretary of state a full statement of the numbers of the districts and the counties included in the districts, and no statement shall be valid unless approved by seven members. After the statement is filed senators shall be elected according to such districts until a re-apportionment is made as herein provided, except that if the statement is not

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filed within six months of the time fixed for the appointment of any such commission it shall stand discharged and the senators to be elected at the next election shall be elected from the state at large, following which a new commission shall be appointed in like manner and with like effect. No such reapportionment shall be subject to the referendum." (Emphasis ours.)

Section 8, Article III, Constitution of Missouri, provides as follows:

"When any county is entitled to more than one senator the county court, and in the City of St. Louis the body authorized to establish election precincts, shall divide the county into districts of contiguous territory, as compact and nearly equal in population as may be, in each of which one senator shall be elected."

Section 22.020, RSMo 1949, provides as follows:

"Within ten days after the effective date of sections 22.020 and 22.030, the secretary of state shall certify to the county courts of the various counties and to the board of election commissioners in the city of St. Louis, the number of districts and the counties included in the districts and the number of districts in counties and in the city of St. Louis, as contained in the statement filed with the secretary of state by the commission provided for in section 7 of article III of the constitution; and thereafter, within sixty days after any subsequent commission acting under authority of said section 7 of article III of the constitution has filed its statement with the secretary of state, the secretary of state shall certify to said county courts and to said board, the number of districts and the counties included in the districts and the number of districts in counties and in the city of St. Louis, as contained in such statement filed by such commission." (Emphasis ours.)

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Section 22.030, RSMo 1949, provides as follows:

"On or before March first following the certification by the secretary of state as provided in section 22.020, the board of election commissioners of the city of St. Louis and the county courts of those counties which by said report are entitled to more than one senator, shall certify to the secretary of state a complete statement of the senatorial districts established therein; and in the event that said board of election commissioners of the city of St. Louis or the county courts of such counties fail to comply with this section, the number of senators in such districts to be elected at the next election shall be nominated and elected by the electorate from the state at large; provided the persons so nominated and elected shall reside in the city or the county entitled to such senators." (Emphasis ours.)

From the above-quoted provisions of the Constitution and the statutes it is evident that within sixty days after every decennial census taken in the United States the Secretary of State certifies to any county entitled to more than one senator and to the city of St. Louis the number of senators which such county or the city of St. Louis is entitled to. It is provided in Section 22.030, supra, that the Board of Election Commissioners of the City of St. Louis shall, on or before March 1, following such certifications by the Secretary of State, certify to the Secretary of State a complete statement of the senatorial districts established therein. This duty of establishing senatorial districts is one then that must be performed by the Board of Election Commissioners of the City of St. Louis after every decennial census when the Secretary of State certifies to such Board the number of senators to which such city is entitled.

The determination of the boundaries of such districts is a matter left in the discretion of the Commission, subject to the constitutional provision that no senatorial district shall vary more than one fourth from the quotient obtained by dividing the population of the state by thirty-four. The Board, if it so desires, in redistricting may determine that the new senatorial districts should have the same boundaries as the present senatorial districts. However, new districts must be created in order to comply with the statute. Section 2, Article III of the Constitution of Missouri, provides as follows:

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"The house of representatives shall consist of members elected at each general election and apportioned in the following manner. The ratio of representation shall be the whole number of the inhabitants of the state divided by the number of two hundred. Each county having one ratio, or less, shall elect one representative; each county having two and a half times the ratio shall elect two representatives; each county having four times the ratio shall elect three representatives; each county having six times the ratio shall elect four representatives, and so on above that number giving an additional member for every two and a half additional ratios. On the taking of each decennial census of the United States, the secretary of state shall forthwith certify to the county courts, and to the body authorized to establish election precincts in the City of St. Louis, the number of representatives to be elected in the respective counties." (Emphasis ours.)

Section 3, Article III of the Constitution of Missouri, provides as follows:

"When any county is entitled to more than one representative, the county court, and in the City of St. Louis the body authorized to establish election precincts, shall divide the county into districts of contiguous territory, as compact and nearly equal in population as may be, in each of which one representative shall be elected."

Section 22.050, RSMo 1949, provides as follows:

"Within ten days after the effective date of this section, and thereafter within thirty days after the taking of each decennial census of the United States, the secretary of state shall forthwith certify to the county courts of the several counties named in section 22.040, which are entitled by this apportionment to two or more representatives, and to the board of election commissioners in the city of St. Louis, the number of representatives to be elected in the respective counties and in the city of

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St. Louis. Within twenty days after the effective date of this section and thereafter within sixty days after being officially so informed by the secretary of state, the county court of the several counties and the board of election commissioners of St. Louis shall divide their respective counties and said city into representative districts, of compact and contiguous territory corresponding in number to the representatives to which such county or city is entitled, and in population as nearly equal as may be, in each one of which the qualified voters shall elect one representative, who shall be a resident of such district. After each decennial census such districts may be altered one time as public convenience requires. On its own motion, or on petition of five hundred or more qualified voters of the county or of said city, the county court of such counties or the board of election commissioners in the city of St. Louis, shall hold a public hearing to determine the necessity for altering any such districts. The population of the county or of said city shall be divided by the number of representative districts in the county or said city, and proof at such hearing that by the last decennial census of the United States taken since the last districting was made the population of any one district varies from the quotient by more than one-fourth thereof, shall be prima facie evidence that public convenience requires that such a redistricting be made. If the county courts or board of election commissioners of said city shall find that public convenience requires such redistricting to be made, they shall by an order entered of record, redistrict such county or city into representative districts in the manner prescribed by the constitution for such districts. Within thirty days after the effective date of this section, and thereafter within thirty days after making any districting, the county court or board of election commissioners in said city shall file the divisions or alteration and the names and descriptions of the districts with the county clerk of said counties or the circuit clerk in said city, and

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certify the same to the secretary of state."ⁿ (Emphasis ours.)

Under the above-quoted constitutional and statutory provisions it is the duty of the Secretary of State to certify, within thirty days after the taking of each decennial census of the United States, to the Board of Election Commissioners of the City of St. Louis the number of representatives to be elected in such city. It then becomes the duty of the Board of Election Commissioners, within sixty days after being so notified, to divide such city into the number of representative districts to which such city is entitled. The Board may, in redistricting after each census, use the same boundaries in the new districts that the present districts have, but such Board must create new districts after every decennial census. The provisions of Section 22.050, supra, relative to altering representative districts which have been established, apply only after the redistricting provided for after each decennial census has been completed.

CONCLUSION

It is the opinion of this department that the Board of Election Commissioners of the City of St. Louis must redistrict the city of St. Louis into senatorial districts on or before March 1, following the certification by the Secretary of State after each decennial census.

It is the further opinion of this department that the Board of Election Commissioners of the City of St. Louis must redistrict the city of St. Louis into representative districts within sixty days after receiving the certificate of the Secretary of State as to the number of representatives to which such city is entitled after each decennial census.

Respectfully submitted,

C. B. BURNS, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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