

ELECTIONS:
REGISTRATION:
VOTERS:
QUALIFIED VOTERS:
SENATE BILL #297:

The county clerk of those counties coming within the provisions of S.B. 297 is required by Section 116.040, RSMo 1949, to register all persons who seek registration after August 29, 1955, using the three card system stated in said Sec. 116.040; under Sec. 116.060, RSMo 1949, county clerk of those cities coming within said bill 297 must maintain and distribute the three registration cards and binders called for that he has at that time, and for those voters for whom he has none he must use the old registration books made up under Chapters 114 or 115.



September 6, 1955

Honorable Joseph M. Bone
Prosecuting Attorney
Audrain County
Mexico, Missouri

Dear Sir:

Your request for an opinion reads as follows:

"I would like to have the opinion of your department on the following matter:

"Under your opinion of August 3, 1955 relative to persons who are registered prior to July 1, 1955, in cities covered by Senate Bill No. 297, 68th General Assembly, are not required to register by Section 116.040, R.S. Mo. 1949.

"(1) However, this question has been raised by the County Clerk of Audrain County, Missouri. The registration under Section 114.110, R.S. Mo. 1949 proceeds on a different basis than the requirements under Section 116.040, R.S. Mo. 1949 in that under the old registration there is now one registry book and one registry card for voters to sign. Under the new registration Section 116.040 it requires that three cards be signed when the voter registers. The three card system won't fit the one card system binders. Presently under the old registration law effective in this county there are now eight binders and under the new system it would require sixteen binders plus the one permanent registration binder.

Honorable Joseph M. Bone

"(2) The second question in this connection is that if the old method of registration is continued as to those registered prior to July 1, 1955, how can the County Clerk comply with the requirements under Section 116.060, R.S. Mo. 1949 as to the maintenance and distribution of the three registration cards, the pink, the blue and the white registration cards.

"I would appreciate having your opinion on this matter, and also, I would like to have a copy of your previous opinion of 8-3-55."

Section 116.040, RSMo 1949, reads as follows:

"1. Each person who shall offer to register under this chapter shall appear at the office of the county clerk within the time and hours herein stated. Such persons shall answer truthfully all questions as to identity, residence and qualifications called for by the registration records required by this chapter. There shall be provided by the county clerk three sheets or cards for the registration of each voter. Said cards or sheets shall be adapted for use in loose leaf or card registration binders. One of said sheets or cards provided for each voter shall be tinted pink, one blue and another white. Said cards or sheets shall contain the following information:

Name
Address
Street and No.
Location of Resident's place of
Birth
Color Sex Age
Occupation
Term of Residence
.....State County
Precinct
Naturalized--Court in which Naturalized--
Sworn (Yes or No)
Remarks:

Voter's Signature
.

Honorable Joseph M. Bone

"On each registration sheet, and below the elector's signature, shall be the following form, which shall be kept by the judges of election:

<u>Election Date</u>	<u>Registration Number</u>	<u>Voted</u>	<u>Rejected</u>
--------------------------	--------------------------------	--------------	-----------------

Remarks

"At the time of registration, and after supplying the information called for on said registration records, each person shall write his full name on each of the three registration records and shall, at the same time, take the following oath, which shall be inscribed above his or her signature on each sheet, as follows:

Affidavit of Registration

The undersigned affiant, being duly sworn, says:

'I hereby swear (or affirm) that the statements made herein are true and that on or before the next ensuing primary or election I will be at least twenty-one years of age, and that I am or will be, on said date, a qualified elector in the city of _____.'

"2. If any applicant is unable to sign his name, the application for registration shall be written for him and the affidavit of registration shall include, under 'Remarks,' the date of birth, the height in feet and inches, color of eyes and any distinguishing marks. He shall then sign the application for registration and affidavit by making his mark in the usual manner."

The registration cards to be used under this chapter and the section stated above are to be used only in the registration of those persons registering under Chapter 116. In other words, those persons who have not registered prior to July 1, 1955, must register in accordance with Senate Bill No. 297. Thus, in applying this section to those persons who are not required to register

Honorable Joseph M. Bone

under Chapter 116 and Senate Bill No. 296, there will be no cards for those persons as called for in Section 116.040, but as to those persons who are required to register now under Chapter 116, the three card system shall be used. As you state in your letter, a county clerk in a county where there was held registration under Chapters 114 and 115 will have two sets of registration books. He will have to keep the old registration books until there is a complete set of the new card registration books. Undoubtedly the Legislature did not consider this problem when it enacted Senate Bill No. 297. This office may sympathize with the counties wherein they will have to keep, as you say in your county, eight binders for the old registration law and sixteen binders, plus one permanent registration binder, for the new system.

Your second question is how can the county clerk comply with the requirements of Section 116.060, RSMo 1949, as to the maintenance and distribution of the three registration cards. Said Section 116.060 reads as follows:

"Within twenty days after the last day of the first general registration herein provided for, the county clerk shall cause the pink and blue affidavits of registration to be arranged into permanent binders, one binder with pink sheets and one binder with blue sheets for each precinct, and the same shall be arranged alphabetically in said precinct binders. The white sheets shall be arranged alphabetically in a separate binder, without regard to precinct or ward. Said sheets shall be enclosed in a loose-leaf system, with a substantial, strong binding, and each book shall have a lock on the binding so that said sheets or cards cannot be removed without unlocking said binder. The county clerk shall be the custodian of said registration records, and no sheets or records shall be removed or transferred from said binders except under his direction and supervision. The registration records with pink sheets shall be continuously revised and securely kept by the county clerk in his vault, except when given to the appointed election judges for use at elections. The registration books with blue sheets shall be continuously revised and securely kept by the county clerk in his vault and never permitted to leave his custody, except where given to an election

Honorable Joseph M. Bone

judge to be used at the polls in the event that the pink records are lost or are not available for use at the polls on any election day. The record with white sheets, which shall be known as the 'master record', shall be kept by the county clerk in his vault at all times and shall be open to inspection of the public. All three records shall be continuously revised and kept up to date. The county clerk, on the day before any primary or general election for which registration is made, shall deliver, or cause to be delivered, to the judges of election, appointed under and by virtue of the general laws of election, proper registration records for their respective precincts and shall take a receipt, or cause the same to be taken, from the judge to whom the same may be delivered and keep same on file until said records are returned. All affidavits required by this chapter shall be preserved by the county clerk until canceled as a part of the registration records to which they relate."

It will be noted that the first sentence of this section states that within twenty days after the last day of the first general registration is provided for, and then goes on to state the duties of the county clerk. Under Senate Bill No. 297 we had no general registration in those cities under Senate Bill No. 297. Thus, the Legislature has left it in doubt as to when the county clerk shall arrange the binders for the three card registration index. This office believes that the county clerks in those counties and cities coming under Senate Bill No. 297 should use the old registration binders in conjunction with the binders of the new three card indices in elections until the time there is a three card indices completed. Although there is no expressed provision for doing this, this office believes that it is implied by the fact that the Legislature in enacting Senate Bill No. 297 stated that those persons who had registered prior to July 1, 1955, would not have to register under Senate Bill No. 297 unless otherwise obligated to do so by Chapter 116, RSMo 1949. Thus, the Legislature undoubtedly contemplated that the county clerks should use the old registration lists and binders along with the new cards and binders until the new set of the three card indices would be complete. Such old lists and books should be used along with the new lists and binders in following the provisions of Section 116.060, RSMo 1949.

Honorable Joseph M. Bone

CONCLUSION

It is the opinion of this office that the three card registration provided for in Section 116.040, RSMo 1949, shall be applied to every person registering under Chapter 116 and that the county clerk should keep a proper indices of such cards by use of binders and until he has a complete set of such he should also keep the old registration lists and binders that were made up either under Chapter 114 or 115, and that the old registration lists and binders should be used at subsequent elections, along with the registration cards and binders of new voters who have registered under Chapter 116, until a complete registration of voters has been made by the county under Chapter 116.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Harold L. Volkmer.

Yours very truly,

John M. Dalton
Attorney General

HLV:vlw