

REGISTRATION LIST: County clerks of those cities that come within the provisions of Senate Bill 297 have until the last day of October 1955 to complete and file a check of the registration lists in such cities whether such check is made through the United States Post Office Department or by means of canvassers.

COUNTY CLERK:



September 8, 1955

Honorable Richard J. Chamier
Acting Prosecuting Attorney
Randolph County
Moberly, Missouri

Dear Sir:

Your request for an opinion of this office reads as follows:

"It appears that Chapter 116 of the Revised Statutes of Missouri, 1949, will apply to Moberly in Randolph County, Missouri after August 29, 1955, the effective date for legislation passed by the 1955 general assembly. Section 116.090 provides that the County Clerk shall take certain action no later than the first day of September. It would seem that he would be unable to do what is required of him between the day when this section of the statute applies to this county (August 29) and the day when he is required by the new law to have performed an official duty (September 1). Certain names should be published following the 'careful check of the register list' which the Clerk is required to make and other things are to be done, none of which can apparently be done in this limited time."

Section 116.090, RSMo 1949, which on August 29 by Senate Bill 297 became applicable to all cities containing at least 10,000 population, located in any county not having a provision for registration of voters, reads as follows:

"1. During the year of 1947, and not later than the first day of September, 1947, except as herein provided, and each four years there-

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after at said time, the clerk of the county court in any county affected by this chapter shall cause a careful check to be made of the registration list. He shall cause each person on said list to be checked as to residence and all other facts bearing on his eligibility as an elector. The said clerk shall conduct such canvass or verification through the United States Post Office Department, furnishing all lists and other information which may be necessary to such department, and he shall cooperate with such department to the end of procuring a verification of every name on the registration records. If in his judgment it shall be necessary to supplement the verification conducted through such department, the county clerk shall make application to the circuit court en banc or to the majority of the judges thereof in vacation for the appointment of canvassers to make such further check of the registration list as may be required and, if in the judgment of the said circuit court or a majority of the judges thereof such further canvass shall be deemed necessary, they shall empower the said county clerk to employ the necessary canvassers requested by him on such terms and at such compensation as may be fixed by said circuit court or judges. The said canvassers shall be resident electors of said county, of good repute and character, not in public employ in any such county, and no person shall be named as a canvasser who is at such time a candidate for public office or a member of a family of any candidate. Any such canvass or verification conducted through the United States Post Office Department or by means of canvassers appointed by the county clerk shall be completed and the report thereof filed in the office of said county clerk not later than the last day of October in such year. On or before the first day of November the county clerk of any such county shall cause to be published in the daily newspaper of the largest circulation in said county a list of the names of all persons not found to reside at the address given in the registration records for such

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persons or otherwise found to be improperly registered under the terms of this chapter. The county clerk shall give notice in such publication that unless any person listed therein appears at the office of the county clerk within thirty days of the date of such publication and makes proper proof of his eligibility as a registered elector in the city his name will be stricken from the registration list. The county clerk shall be empowered to make such revision of the registration records as may be necessary to conform to the results of such registration canvass or verification and shall strike from said records the names of all persons found to be improperly registered. If it shall be necessary to appoint canvassers to supplement the verification through the post office department as herein provided for, the county clerk shall supply to each such canvasser a list of names or other data relating to the registration records requiring verification. Each such canvasser shall make a diligent check of all names supplied to him by the county clerk, calling at the residence given for each such elector. After completing the canvass each such canvasser shall file a report in the office of the county clerk listing the names and addresses of all persons who are not found to reside at the address given in the registration record or otherwise found to be improperly registered and shall file with the said report an affidavit which shall be in substantially the following form:

* * * * * (Form omitted)

"2. The foregoing affidavit shall be sworn to by the canvasser before the county clerk or one of his deputies before such canvasser shall receive compensation for his services. In cases where cities affected by this chapter have completed a first general registration under this chapter within four years next preceding the year 1947, the check of

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the registration list herein required shall be made during the fourth year following the beginning of said general registration, and not later than the first day of September in said year, and each four years thereafter at said time." (Emphasis ours)

Even though this bill did not become law until August 29, the Clerk of the County Court is required by the above section to make a careful check of the registration lists by September 1, 1955. Such check shall be made by checking the residence of each person on such list and such canvass or verification of the registration list shall be conducted by the County Clerk through the United States Post Office Department in accordance with the above cited section. But as the above cited section states if in the judgment of the County Clerk, it shall be necessary to supplement the verification conducted through such department, the county clerk shall make application to the circuit court en banc or to the majority of the judges thereof in vacation for the appointment of canvassers to make such further check of the registration list as may be required and, if in the judgment of the said circuit court or a majority of the judges thereof such further canvass shall be deemed necessary, they shall empower the said county clerk to employ the necessary canvassers requested by him on such terms and at such compensation as may be fixed by said circuit court or judges. The said canvassers shall be resident electors of said county, of good repute and character, not in public employ in any such county, and no person shall be named as canvasser who is at such time a candidate for public office or a member of a family of any candidate. Any such canvass or verification conducted through the United States Post Office Department or by means of canvassers appointed by the county clerk shall be completed and the report thereof filed in the office of said county clerk not later than the last day of October in such year.

Thus, the county clerk has until the last day of October to complete and file the report of the canvass and verification conducted by him through the United States Post Office or by means of canvassers.

Also, it is the opinion of this office that a reasonable time is to be allowed a county clerk within which to perform the duties set out in Section 116.090.

CONCLUSION

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It is the opinion of this office that the county clerk in those cities that come within the provisions of Senate Bill 297 must make a complete check of the registration lists. Such canvass or verification shall be conducted through the United States Post Office Department. But if in the judgment of the county clerk it shall be necessary to supplement the verification of such department, the county clerk has the power to apply to the circuit court en banc or to the majority of the judges thereof in vacation for the appointment of canvassers to make such further check of the registration list as may be required.

The county clerk has until the last day of October to complete the check of the registration lists and to file his report whether such check is made through the United States Post Office Department or by means of canvassers appointed under Section 116.090. Also it is the opinion of this office that the county clerk shall have under all circumstances a reasonable time to complete his check and verification of the registration lists.

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

Yours very truly

John M. Dalton
Attorney General

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