

July 18, 1963



Honorable Ronald Belt
Republican Floor Leader
517 Kohn Street
Macon, Missouri

Dear Mr. Belt:

We have your letter of June 27, 1963, wherein you refer to us an inquiry from a third class city relating to House Bill No. 250.

This bill amends Section 77.040, RSMo 1959, which provides for a general election of the elective officers of cities of the third class not under an alternative form of government. Section 77.040 was changed by adding the clause:

"* * * except that the city council may by ordinance provide for the nomination of officers by primary election under the provisions of sections 78.470 to 78.510, RSMo; * * *."

Your question is whether the city council of a third class city could validly enact the necessary ordinances prior to the effective date of the bill.

Section 29, Article III, Constitution of Missouri, 1945, provides that no law passed by the general assembly shall take effect until ninety days after the adjournment of the session at which it was enacted unless it is an appropriation act or in case of an emergency. House Bill No. 250 is not an appropriation bill nor does it carry an emergency clause. Therefore, its effective date is October 13, 1963--ninety days after the adjournment of the Legislature on July 15, 1963. Until such date there is no existing statute authorizing the passage of ordinances providing for primary elections of elected officers of cities of the third class not under an alternative form of government.

Honorable Ronald Belt

Enclosed herewith are two opinions of this office, one issued on February 1, 1936, to the Honorable F. D. Wilkins, City Attorney, 305½ Wilkins Building, Louisiana, Missouri; the other issued on May 13, 1942, to the Honorable John O. Bond, City Attorney, 510 Central Trust Building, Jefferson City, Missouri. The gist of these opinions is that in the absence of enabling legislation by the State of Missouri, cities of the third class cannot by ordinance provide for municipal primary elections of city officers.

It is, therefore, our opinion that the city council of any third class city coming under the provisions of Chapter 77 should not attempt to enact ordinances for the nomination of officers by primary election as provided by House Bill No. 250 until after October 13, 1963.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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Enclosures