

INITIATIVE:
COUNTY COUNCIL:
ST. LOUIS COUNTY CHARTER:

For the purpose of determining the sufficiency of initiative petitions under the St. Louis County Charter the petitions must be signed by at least 5 percent of the total vote cast for governor at the last election in at least 5 of the Council districts from which presently serving councilmen were elected.

May 23, 1966

OPINION NO. 218

Honorable Norman Barken, Counselor
Board of Election Commissioners
8005 Forsyth Boulevard
Clayton, Missouri 63105



Dear Mr. Barken:

Your letter of March 4, 1966, requesting an opinion from this office is as follows:

"St. Louis County Council did on or about September 10, 1964, adopt an ordinance establishing new districts for the election of councilmen in said County. A copy of said ordinance is attached hereto and made a part hereof. Subsequent to the adoption of said ordinance, a group of citizens have been circulating petitions pursuant to the initiative powers of Article VII, Sec. 78 of the Charter of St. Louis County, 1950, as amended. Said Section states:

"Section 78. Initiative petitions proposing ordinances shall be signed by qualified voters equal in number to at least 5 percent of the total vote cast for governor in at least five of the Council districts at the last election at which a governor was chosen. Each petition shall contain the full text of the measure and an enacting clause which shall read as follows: 'Be it enacted by the people of St. Louis County:'. Such petitions shall be filed with the Board of Election Commissioners which shall be the judge of their sufficiency. The Board shall submit the proposed ordinance to the voters at the next general election held at least 60 days after the petitions are filed. An affirmative vote of a majority of those voting on the proposition shall be sufficient for its adoption."

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"Pursuant to said Section, the petitions must contain sufficient signatures from at least five of the Council districts.

"The Board of Election Commissioners has been asked to respond to the query that if said initiative petitions are filed with the Board whether or not said petitions must contain the prescribed number of petitioners from the "old" Council districts or from the new Council districts, pursuant to the ordinance attached hereto. We desire to obtain your opinion as to the validity of initiative petitions under Section 78 as to whether or not said petitions are to be from the old or new Council districts, if said petitions are filed with the Board of Election Commissioners subsequent to February 1, 1966 and prior to August 1, 1966."

Article VII, Section 78, of the Charter of St. Louis County, 1950, as amended provides:

"Section 78. Initiative petitions proposing ordinances shall be signed by qualified voters equal in number to at least 5 percent of the total vote cast for governor in at least five of the Council districts at the last election at which a governor was chosen * * *".

Your question is whether or not the petitions must contain 5 percent of the qualified voters of the total vote cast at the last gubernatorial election in at least five councilmanic districts, as they existed prior to adoption of the ordinance changing the districts.

The ordinance establishing the new voting districts provides that the voters of the odd-numbered districts shall elect a councilman in 1966, and even numbered in 1968. This advance Section 103.260, is as follows:

"The qualified voters of each of the odd-numbered districts shall nominate and elect a member of the Council at the primary and general elections held in 1966. The qualified voters of each of the even-numbered districts shall nominate and elect a member of the Council at the primary and general elections held in 1968. Each member of the Council shall take office on the first day of January following his election and shall serve for a term of four (4) years."

In our opinion the new districts do not come into existence insofar as Section 78 of Article VIII of the Charter is concerned until such time as the councilmen are elected for those districts.

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This office issued Opinion No. 164 on April 13, 1962, to Warren E. Hearnes, then Secretary of State of Missouri, wherein a similar question was decided. The congressional districts of Missouri were reduced from eleven to ten, due to the drop in population under the 1960 census. The question at that time was raised in regard to initiative petitions which required 8 percent of the voters voting in the last gubernatorial election in each of two-thirds of the districts in the state. The Hearnes opinion, a copy of which is attached, holds that the new districts had no existence insofar as initiative petitions are concerned until such time as a representative was elected.

In our opinion therefore, the councilmanic districts to be considered for the purpose of determining the sufficiency of initiative petitions are those districts from which existing councilmen were previously elected .

CONCLUSION

It is our opinion that for the purpose of determining the sufficiency of initiative petitions submitted under "Article VII, Section 78, of the Charter of St. Louis County, 1950," the petitions must be signed by at least 5 percent of the total vote cast for governor in the last election in at least five of the Council districts from which presently serving councilmen were elected.

The foregoing opinion which I hereby approve was prepared by my assistant, O. Hampton Stevens.

Yours very truly,



NORMAN H. ANDERSON
Attorney General

Encl: Opinion No. 164, dated April 13, 1962, to Warren E. Hearnes, Secretary of State of Missouri.