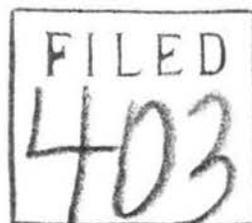


ELECTIONS:  
POLITICAL PARTIES:  
ELECTION JUDGES:

County courts and boards of election commissioners have authority to appoint as election judges only members of the Democratic and Republican parties because such two political parties are the parties which received the largest number of votes and the next largest number of votes at the last general election. The county courts and boards of election commissioners have no authority to select judges from lists submitted to them by the alleged representatives of a third political party.

OPINION NO. 403

October 17, 1968



Honorable Kenneth W. Shrum  
Prosecuting Attorney  
Bollinger County  
Marble Hall, Missouri 63764

Dear Mr. Shrum:

This is in answer to your letter of recent date in which you asked for the Attorney General's opinion concerning the authority and duty of the county courts and election boards to appoint election judges from a list submitted by a political party other than the two political parties which received the largest number of votes and the next largest number of votes at the preceding general election.

It is our opinion that the county courts and boards of election commissioners of this state must appoint only members of the Democratic and Republican parties as election judges because such parties received the largest number of votes and the next largest number of votes at the preceding general election.

Section 111.320 RSMo provides as follows:

"All judges of elections, appointed under the provisions of this chapter shall be selected by the county court from a list of persons furnished said court in the form and manner following: The political party that polled the largest number of votes at the last preceding general election

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and the political party that polled the next largest vote at said election shall, each, through its central committee, furnish to said county court at least fifteen days before the election, a list of names of persons qualified by law to serve as judges of election, double the number required for judges of said election, from which said list said county court shall, at least ten days before the election herein provided for, select and appoint the number of judges required to hold said election, taking one-half of the judges so appointed from each of said lists; provided, that for the purpose of determining the political parties entitled to representation on the election board, the county court shall take the vote cast for governor throughout the entire state for the respective parties; provided further, that if any political party, through its committee, shall fail to present a list of names as aforesaid, within the time aforesaid, then the said county court may select and appoint the requisite number of judges provided by law for said party."

Such section is generally applicable throughout the state except in those cities and counties which come within the purview of laws specifically applicable to such counties and cities.

Similar provisions are found in Section 113.150 RSMo applicable to St. Louis County which section provides that the judges are to be selected by the board of election commissioners from lists furnished by the political party committees of the two parties which polled the largest number of votes and the next largest number of votes at the last preceding general election and further provides that if one of the parties fails to present the list within the time provided by statute or if the names presented are those of persons not entitled to vote or not qualified to be judges then the election commissioners shall select the number of judges provided by law for such party.

Section 113.650 RSMo makes similar provisions concerning that part of Jackson County outside of Kansas City. Such section provides that the judges of election shall be selected by the election board from lists submitted by the committees of the two political parties that polled the largest number of votes and the next largest number of votes at the last preceding general election and also

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provides that if one of such parties fails to present a list of names within the statutory time or if the names so presented are of persons not qualified to vote or not suitable to serve as judges, the board appoints the number of judges provided by law for such party.

Section 117.090 RSMo makes similar provisions concerning Kansas City. Such section provides that the judges shall be selected from each of the two political parties polling the largest number of votes at the preceding general election.

Section 118.070 RSMo, Supp. 1967, makes similar provisions for selection of judges in St. Louis City. Such section provides that the judges shall be selected from the two political parties polling the largest number of votes at the last general election.

Section 119.200 RSMo makes similar provisions for selection of judges in Clay County. Such section provides that the judges may be selected from names submitted by the committees of the two political parties which polled the largest number of votes at the last preceding general election.

In view of these statutory provisions, it is clear that the election judges in all voting districts in the state are selected by the county courts or boards of election commissioners from members of the two political parties which at the last preceding general election polled the largest number of votes and the next largest number of votes. In this state, of course, such parties are the Democratic party and the Republican party.

In view of these clear statutory provisions, providing that the county courts and boards of election commissioners shall appoint judges who are members of the two parties receiving the largest number of votes at the preceding general election, it is clear that the county courts and boards of election commissioners have no authority to appoint judges from lists submitted by persons allegedly representing a third party.

#### CONCLUSION

It is the opinion of this office that county courts and boards of election commissioners have authority to appoint as election judges only members of the Democratic and Republican parties because such two political parties are the parties which received the largest number of votes and the next largest number of votes at the last general election. The county courts and

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boards of election commissioners have no authority to select judges from lists submitted to them by the alleged representatives of a third political party.

The foregoing opinion, which I hereby approve, was prepared by my assistant, C. B. Burns, Jr.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General

skw