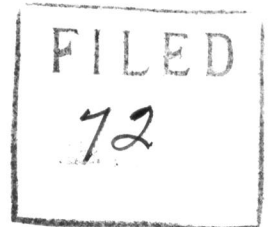


February 28, 1978

OPINION LETTER NO. 72
Answer by Letter - Burns

Honorable Gerry Durnell
State Representative, District 149
Room 101-D, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Durnell:

This is in answer to your opinion request reading as follows:

"My question is whether it is necessary for a state representative to live in the legislative district from which he wishes to be elected for at least one year, if the person has been a legal resident of the county within which the entire district is located for a period of at least two years prior to the time he files for office."

We believe that your request is answered by Opinion No. 104, rendered February 7, 1967, to Representative Richard J. Rabbitt. The conclusion in such opinion was applicable to candidates for the 74th General Assembly in view of the fact that state representative districts were reapportioned in 1966.

However, we believe it clear that in the body of the opinion an answer to your present request is found. On page 3 of the Rabbitt opinion, in referring to the use of the phrase "county or district" in Article III, Section 4 of the Constitution of Missouri, such opinion holds:

Honorable Gerry Durnell

"Examination of this section of the Constitution shows that the language 'county or district' is used three times in the section. The first two times it seems clear that where representative districts have been established for more than one year the representative to be qualified must be a voter for two years and a resident of his district for one year. . . ."

This is a specific ruling and holding that when representative districts have been established for more than one year as is the factual situation in the present case, a representative to be qualified must be a voter for two years and a resident of the district he wishes to represent for one year.

Further, the sentence in such opinion preceding the conclusion provides as follows:

". . . Manifestly after reapportionment, representatives so chosen who do not live within their district would be required to establish residence within their district before they would be qualified at a subsequent term."

We believe it to be clear from the holding in Opinion No. 104-1967 that where representative districts have been established for more than one year prior to an election a candidate must have resided in the district in which he wishes to run for office one year prior to the date of the election.

We enclose a copy of Opinion No. 104-1967.

Very truly yours,

JOHN ASHCROFT
Attorney General

Enclosure: Op. No. 104,
2/7/67, Rabbitt