

ELECTIONS:  
COUNTY CLERKS:  
REGISTRATION:  
HOLIDAYS:

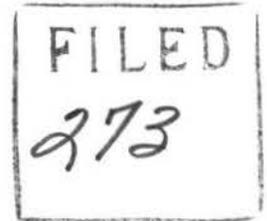
The Missouri statutes with respect to the close of voter registration which provide for different closing dates for such registration are valid.

The General Assembly of Missouri can by statutory enactment provide for a uniform closing date for registration throughout the state. County clerks are not prohibited from opening their offices for registration on a legal holiday under Sections 114.080 or 116.030, RSMo 1969.

OPINION NO. 273

October 4, 1972

Honorable James C. Kirkpatrick  
Secretary of State  
State of Missouri  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Kirkpatrick:

This opinion is in response to your question in which you ask:

"May the county clerks of the various counties of the State of Missouri which have voter registration register voters on October 10, 1972."

You also state:

"Confusion has resulted because of an ambiguous statutory requirement regarding voter registration.

"Section 114.120 provides 'no person is entitled to register within a period of 28 days prior to any primary or general election . . .'

"Section 116.030 provides that 'no person shall be entitled to register within a period of 28 days prior to any election . . .'

"Section 113.210-3 provides '. . . no new registration of voters . . . shall be made at any time later than 5 p.m. on the 28th day preceding any general, special or primary election . . .' (1971 Supp.).

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"The effect of the latter requirement, enacted by House Bill 150, laws 1971, is to impose a different requirement upon Boards of Election Commissioners than is imposed upon the urban counties adjacent to the metropolitan areas which have voter registration. For instance, it means that the last date for voter registration in St. Charles County will be October 7, 1972, while the last day for voter registration in adjoining St. Louis County will be October 10.

"It seems that the intent of the legislature was to provide uniformity in voter registration throughout the state, and thus your interpretation of this ambiguity is requested so as to clarify the situation."

In addition to the differences in the registration statutes that you have noted above there are also other statutory variations. That is, Section 118.240, RSMo Supp. 1971 with respect to registration of voters in cities of over 600,000 inhabitants (St. Louis City), provides in part:

". . . Registration for any election shall be closed at five o'clock p.m. on the twenty-eighth day preceding the election, . . ."

Further, Section 117.290, RSMo 1969 with respect to cities having 300,000 to 700,000 inhabitants (Kansas City), provides in part:

". . . Registration for any election shall be closed at the close of office hours on the fourth Wednesday prior to the day of the election, . . ."

And, Section 119.280, RSMo 1969 with respect to certain counties containing a city or part of a city of over 400,000 inhabitants (Clay County), provides in part:

"No registration of new voters for any election shall be permitted later than the fourth Wednesday before the election in counties included in this chapter, . . ."

Thus, it is clear that the registration laws of this state are not consistent. However it cannot be said that such laws are, in this respect, ambiguous and where a statute is not ambiguous

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there is no room for construction, the intent is clear and we cannot search for a meaning beyond the statute itself. State ex rel. Bell v. Phillips Petroleum Company, 160 S.W.2d 764 (Mo. 1942). Therefore the rule of construction applied in this instance simply means that even though the precise language of the statutes results in different closing registration dates there is no way for this office to achieve uniformity by construction.

We do not consider whether there is any constitutional violation by reason of the differences in the closing registration dates. We see no clear constitutional violation and it is a well settled principle of constitutional construction that only when there is a clear conflict between a legislative enactment and the Constitution are the courts warranted in declaring the law to be void. In the Matter of Burris, 66 Mo. 442, 450 (1877); Borden Company v. Thomason, 353 S.W.2d 735, 743 (Mo. 1962). If uniformity is sought, recourse is to the state legislature.

You also ask inferentially whether county clerks of counties having local option registration under Chapter 114, RSMo and county clerks in certain counties containing cities of over 10,000 inhabitants under Chapter 116, RSMo may open their offices for registration on the second Monday in October (October 9, 1972) which is a public holiday under Section 9.010, RSMo 1969, known as "Columbus Day", Section 9.020, RSMo Supp. 1971.

Section 114.080, RSMo 1969 provides in part:

"2. The county clerk's office is open for permanent registration at all times the office is open for other business, except the office is not open on Sundays and holidays. Registration shall be held at the office of the county clerk within the hours which said office is ordinarily open."

Section 116.030, RSMo 1969 provides in part as follows:

". . . The county clerk's office shall be open for permanent registration at all times that such office is open for other business, Sundays and holidays excepted. . . ."

In construing a similar provision this office held in Opinion No. 24, dated August 18, 1954 to the Board of Election Commissioners for the City of St. Louis, copy enclosed, that such statutory language merely states when the office must be open and that it is optional as to whether the office will be open on a legal holiday.

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CONCLUSION

It is the opinion of this office that the Missouri statutes with respect to the close of voter registration which provide for different closing dates for such registration are valid. The General Assembly of Missouri can by statutory enactment provide for a uniform closing date for registration throughout the state. County clerks are not prohibited from opening their offices for registration on a legal holiday under Sections 114.080 or 116.030, RSMo 1969.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John C. Klaffenbach.

Very truly yours,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the printed name and title.

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 24, 8/18/54  
Board of Election Commissioners