

ELECTIONS:
CITY ELECTIONS:
CITIES, TOWNS & VILLAGES:

A third class city located in a county which does not have a board of election commissioners may designate the number of election precincts within the boundaries of the municipality.

OPINION NO. 37

February 25, 1974

Honorable Clifford W. Gannon
Representative, District 125
Room 405, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Gannon:

In your recent opinion request you stated the following:

"The City of DeSoto is a city of the third class with a city manager form of government and is in Jefferson County, a second class county. Both Jefferson County and the City of DeSoto have adopted Chapter 114 R.S.Mo., local option county registration.

"Does the DeSoto City council have the sole authority and power pursuant to and in accordance with the provisions of Section 78.540, sub-paragraph 6, to designate and change the number of voting precincts within the City under the following circumstances:

- (1) When there are state, county, city and six director school district elections on the same date?
- (2) When there are county, city, and six director school district elections on the same date?
- (3) When there are city and six director school district elections on the same date?
- (4) When there are only city elections on the date of election?"

The 77th General Assembly in enacting House Bill Nos. 20, 71, 94, and 97 that repealed Chapters 114 and 116, RSMo, provided a clear answer to your question. Section 20 of that act (Section 114.116, RSMo Supp. 1973) in subparagraph 1 states:

Honorable Clifford W. Gannon

"Election districts or precincts for that part of the county outside the corporate limits of any city, town or village, which for municipal election purposes is subject to the provisions of this act, shall be set by the county court. The election precincts for that part of the county within any city, town or village, which for municipal election purposes is subject to the provisions of this act, shall be set by the governing body of the city, town or village or by the municipal election authority, whichever the case may be."

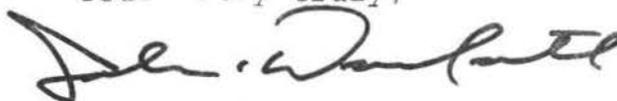
This section grants the municipality the power to designate voting precincts within the municipality for any election providing that any specific provisions governing the number or location of precincts are followed. A careful reading of the above-quoted provision indicates that it is applicable not only to municipal election, but all elections. The reference to municipal elections is included only to define the class of cities subject to this new act. The provisions of this act are applicable to DeSoto, as Section 1 of the act states that the act ". . . shall apply in all elections except those in cities and counties having a board of election commissioners."

CONCLUSION

It is the opinion of this office that a third class city located in a county which does not have a board of election commissioners may designate the number of election precincts within the boundaries of the municipality.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Peter H. Ruger.

Yours very truly,



JOHN C. DANFORTH
Attorney General