

ELECTIONS:
REGISTRATION:
COUNTY CLERKS:

Section 51.121, RSMo 1969, requiring the county clerk to inspect voting precincts and present a report to the county court and certain party

officials is not applicable to counties in which there is registration under either Chapters 114 or 116, RSMo 1969 but in which there is not registration as provided for by both chapters.

OPINION NO. 66

March 27, 1972

Honorable Harold L. Volkmer
State Representative, District 100
Room 407 Capitol Building
Jefferson City, Missouri 65101



Dear Representative Volkmer:

You recently inquired whether the duties imposed on county clerks by Section 51.121, RSMo 1969, are applicable in counties in which there is local option registration, pursuant to Chapter 114, RSMo 1969, but no city registration, as authorized by Chapter 116, RSMo 1969, or in counties in which there is city registration but no local option registration.

Section 51.121, RSMo 1969 states:

"In counties of the second, third, and fourth classes, which have adopted the provisions of chapters 114 and 116, RSMo, the county clerk shall annually, on or before May tenth, inspect all voting precincts in the county, review the described boundary lines, and survey the number of voters in each precinct measured by the vote at the last preceding presidential election, and within thirty days after the conclusion of such inspection, present a signed report to the county court and the county chairmen of the two political parties receiving the largest number of votes in the last presidential election, detailing changes, alterations, and additions which appear to be necessary for the convenience of the voters."
(Emphasis added).

In determining the answers to the previously stated questions, the critical inquiry must be directed to the terms "Chapters 114

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and 116". The use of the term "and" connotes a legislative intent to require both conditions, the presence of the form of voter registration specified by both Chapters 114 and 116, to exist before this provision imposes any additional duties upon the county clerk.

The use of the term "adopt" by Section 51.121 with reference to Chapter 116 is incorrect because counties of the second, third, and fourth classes cannot adopt Chapter 116. The provisions of Chapter 116 are applicable only to voters in certain cities. It appears that the legislature meant that Section 51.121 should apply to counties which have voted to require a registration of the qualified voters in the county and in which the provisions of Chapter 116 are also applicable and in effect.

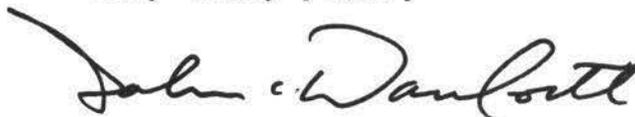
Both Chapters 114 and 116 impose certain specific duties upon a county clerk. Of course, when either of these chapters are applicable, the duties stated therein must be performed by the county clerk. However, because Section 51.121, RSMo 1969, states that both Chapters 114 and 116 must be in effect before the county clerk performs the duties required by that section, the county clerk is not required to perform such duties in counties which have registration pursuant to Chapter 114 or 116, RSMo 1969 but do not have registration under both chapters.

CONCLUSION

It is the opinion of this office that Section 51.121, RSMo 1969, requiring the county clerk to inspect voting precincts and present a report to the county court and certain party officials is not applicable to counties in which there is registration under either Chapters 114 or 116, RSMo 1969 but in which there is not registration as provided for by both chapters.

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

Very truly yours,



JOHN C. DANFORTH
Attorney General