

ELECTIONS:
REGISTRATION:

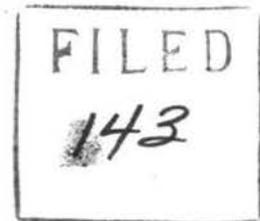
County local option registration
under Chapter 114, RSMo, may begin
at any time after the law becomes

operative following publication of the adoption of local option
registration and must begin by the fifteenth day of September
following such adoption. Such registration must be concluded as
soon as possible. Voter registration is required for elections
covered by Chapter 114 after voter registration is concluded.

OPINION NO. 143

May 2, 1973

Honorable Gary W. Fleming
Prosecuting Attorney
Pettis County, Courthouse
Sedalia, Missouri 65301



Dear Mr. Fleming:

This opinion is in response to your question asking:

"(1.) May the Pettis County Clerk commence county wide voter registration immediately following approval of the same under Section 114.010(4) Mo. R. S. 1969 or must registration be postponed until September 15, the following year under Section 114.040(1) Mo. R. S. 1969 when the City of Sedalia already has voter registration, when there is no change in any boundaries in either city or county precincts, and when the County Clerk already has the necessary registration supplies?"

"(2.) When must county wide registration as stated in above question be completed?"

"(3.) In the event that voter registration may not commence prior to September 15, the year following approval of voter registration, must those voters who register prior to that time re-register?"

In our Opinion No. 48, dated January 30, 1968, to Ferry, we held that the provisions of Chapter 116, RSMo, respecting the registration of voters in cities should be implemented by the registration of voters as soon as possible after adoption.

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In the premises, under the provisions of subsection 4 of Section 114.010, RSMo, if the majority of the votes cast are in favor of registration the county court is required to give notice thereof by publication and "such law shall become operative from the time such publication is made." The question arises, of course, from the provisions of Section 114.040, RSMo, which state in part:

"1. There shall be a registration of all qualified voters in all counties adopting this chapter beginning on the fifteenth day of September next following the date upon which this chapter is adopted, and the registration of voters shall be governed by the provisions of this chapter, except this chapter does not apply where: . . ."

Further, Section 114.070, RSMo, provides:

"At least five days prior to the initial registration under this chapter, the county clerk shall publish a notice of registration, giving the dates, hours and places of registration, in a newspaper of general circulation published in the county."

Section 114.040 standing alone does not appear to be ambiguous. However, when read in conjunction with the provisions of Section 114.010, which states that the law becomes operative from the time of publication after adoption, the provisions of Section 114.040, requiring registration beginning on the fifteenth day of September next following the date of adoption, an obvious ambiguity results. Both laws were passed at the same time (L. 1959, H.B. No. 127) and must be read together.

We find no case holding or statutory authority that throws any light on this question. Obviously, the legislative intent must govern and we cannot interpret these provisions so as to create an absurd and unintended situation.

In our view, the provisions of Section 114.040 cannot be interpreted as prohibiting the registration of voters and the conduct of elections pursuant to Chapter 114 prior to the fifteenth of September next following the adoption of local option registration. If such were the case, the provision of Section 114.010, which makes the law operative upon publication of adoption, would be a nullity. It appears, therefore, that the mandate that there be a registration of voters beginning on the fifteenth day of September following adoption means no more than

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that registration must begin by that date. Any other conclusion would ascribe an intent to the legislature to delay the operative date of the act until the fifteenth of September following the adoption at the prior general election at which the question is submitted under Section 114.010.

Further, it is our view that the provision for beginning registration on the fifteenth of September following adoption of Chapter 114 is only directory and not mandatory because no statutory provision is found which nullifies action not in accordance with such provision.

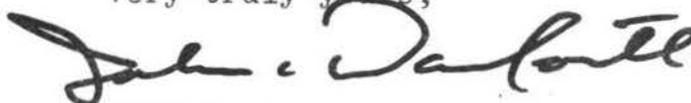
It is therefore our view that county local option registration under Chapter 114 may begin any time after publication of notice of adoption when the law becomes operative and must begin the fifteenth of September following adoption. In either case initial registration must be preceded by notice under Section 114.070, and concluded as soon as possible. After such registration is concluded, voter registration is required for elections covered by Chapter 114.

CONCLUSION

It is the opinion of this office that county local option registration under Chapter 114, RSMo, may begin at any time after the law becomes operative following publication of the adoption of local option registration and must begin by the fifteenth day of September following such adoption. Such registration must be concluded as soon as possible. Voter registration is required for elections covered by Chapter 114 after voter registration is concluded.

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

Very truly yours,



JOHN C. DANFORTH
Attorney General