

Opinion No. 76-26

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TO: Ernestine Evans, Secretary of State, State Capitol Building, Santa Fe, New Mexico 87501

QUESTIONS

Question

What procedures should be followed with respect to the acceptance of voter registration affidavits when elections are scheduled within 42 days of one another?

Conclusion

See analysis.

OPINION

{*98} Analysis

Section 3-4-8, NMSA, 1953 Comp. states:

"A. The county clerk shall receive affidavits of registration at all times except that he shall close registration at 5 p.m. on the forty-second day immediately preceding any election at which the registration books are to be furnished to the precinct board.

B. Registration shall be reopened on the Monday following the election.

C. For the purposes of municipal or school election, the registration period for those precincts within the municipality or school district is closed at 5 p.m. on the forty-second day immediately preceding the municipal or school election and is opened again on the Monday following the election.

D. During the period when registration is closed, the county clerk shall receive affidavits of registration and other documents pertaining thereto but shall not file the affidavit in the registration book until the Monday following the election at which time the triplicate affidavit copy shall be mailed to the registrant at the address shown on the affidavit.

E. . . ."

Section 3-4-8, **supra**, contains two separate directives which affect this question. The first directive is that registration books are to be closed 42 days immediately preceding any election at which the registration books are to be furnished by the County Clerk to the precinct board. The second directive is that registration shall be reopened on the Monday following the election. These two distinct statutory directives would appear to impose inconsistent obligations in a situation in which two or more elections for which voter registration books are provided by the County Clerk are scheduled within 42 days of one another. In such a situation, Section 3-4-8 (A), **supra**, would appear to require that registration books remain closed continuously for a period in excess of 42 days. Section 3-4-8 (B), **supra**, on the other hand, would appear to require that registration books be reopened on the Monday following each election regardless of any other circumstance.

It is a well established rule of statutory construction that a statute {*99} should be read in a manner which will give effect to every part of the statute. **Keller v. City of Albuquerque**, 85 N.M. 134, 509 P.2d 1329 (1973); **Postal Finance Company v. Sisneros**, 84 N.M. 724, 507 P.2d 785 (1973). **Fort v. Neal**, 79 N.M. 479, 44 P.2d 999 (1968); **Clinton Realty Company v. Scarborough**, 78 N.M. 132, 429 P.2d 330 (1967). Accordingly, in order to give effect to all of the provisions of the statute, the County Clerk must receive affidavits of registration during the period in which registration is closed prior to the first election as directed by subsection D of the statute and place them in readiness for filing on the Monday after the first election. On the Monday following the first election, the County Clerk shall enter the affidavits of registration which were received during the period between the 42nd day prior to the first election and the 42nd day prior to the second election.

For example, if Election Two is scheduled 20 days after Election One, the books are closed 42 days before the holding of Election One. During the period in which registration is closed, the county clerk continues to receive affidavits of registration. On the 23rd day of the "closed period" for the first election, the "closed period" for the second election begins to run. This means the County Clerk should take all affidavits of registration received by the 22nd day of the "closed period" for the first election and segregate them in preparation for their entry in the registration books on the Monday after the first election. On the Monday after the first election, the County Clerk should take the group of affidavits received before the start of the "closed period" for the second election and enter them in the registration book. The voters who registered before the "closed period" for the second election are eligible to vote in the second election. On the Monday following the second election, the remaining affidavits of registration which were received in the 42 day period preceding the second election are entered in the registration books unless there is another intervening "closed period" pertaining to still another subsequent election.

This rather cumbersome system of opening and closing registration and segregating affidavits of registration is necessary in order to harmonize the directives of the statute and in order to avoid disenfranchising voters for a constitutionally impermissible period of time.