

Cities and Towns, First Election in. Registration of Electors, for First Election. Election, First in City or Town.

Registration of electors is necessary for the first election of officers after the incorporation of a city or town, but special registration therefor is not necessary, notwithstanding the precinct boundaries do not conform to the exterior boundaries of the new municipality.

May 4, 1915.

Hon. H. F. Miller,
County Attorney,
Fort Benton, Montana.

Dear Sir:

I am in receipt of your letter of the 22nd ultimo, wherein you set forth that there are two towns in your county that have already voted to incorporate, and are now ready to proceed with the first election of officers, and you desire my opinion as to whether registration is required for the election provided for in Section 3210, Revised Codes 1907, and if so, whether it be necessary that a new registration be had of qualified electors residing within the proposed corporate limits, in order to entitle them to vote, irrespective of the fact that their names already appear upon the great register. You indicate in your letter that the exterior boundaries of these towns do not conform with precinct lines.

As to the first inquiry, it is only necessary to say that registration is required for all elections, whether general or special, except in school district elections of the third class, and for certain elections held in school districts of the second class.

In reply to the second inquiry, you are advised that heretofore this office has held that at an election held to vote upon the question of incorporating, only the qualified electors whose names appear on the last general registration list of the precinct or precincts embraced in the territory described in the petition for incorporation have a right to vote at such election.

Volume I, Opinions of Attorney General, p. 314.

Later it was held that registration is required of electors who voted at the first election of an incorporated city or town.

Volume 4, Opinions of Attorney General, p. 312.

Under the new registration law (House Bill No. 287, approved March 8, 1915), which becomes effective sixty days after its passage, the word "election" is defined as follows:

"The word 'election' as used in this law, where not otherwise qualified, shall be taken to apply to general, special, primary, nominating and municipal elections, and to elections in school districts of the first class,"

and it is also provided by the provisions of Section 28 that no person shall be entitled to vote at any election mentioned in the Act unless his name shall on the day of election, except at school elections in school districts of the second and third class, appear in the copy of the official precinct register furnished by the county clerk to the judges of election; and the fact that his name so appears in the copy of the precinct register shall be prima facie evidence of his right to vote. In these respects, the new registration law does not differ essentially from the previous registration laws. There is no law requiring a special registration for elections such as you mention, and it follows, therefore, that persons whose names appear on the great register, and are copied therefrom into the proper precinct registers are entitled to vote at a municipal election held for the first time in a newly created municipality. Notice of closing and actual closing of the registration books should be provided for the same as for any general or special election.

If at such election persons whose names appear upon the precinct registers, but who do not reside within the exterior limits of the new corporations offer to vote, ample provision is made by law for challenging their right to exercise the franchise.

Yours very truly,

D. M. KELLY,

Attorney General.