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General



STATE OF KANSAS

Office of the Attorney General

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VERN MILLER
Attorney General

August 15, 1974

Opinion No. 74- 282

Honorable Richard C. "Pete" Loux
House Minority Leader
House of Representatives
Capitol Building
Topeka, Kansas 66612

Dear Representative Loux:

K.S.A. 25-2304 states thus:

"The county election officer shall maintain *registration books* to register all citizens entitled to be registered by such county election officer under the provisions of this act. Such registration books may be solidly bound, or may be looseleaf, or may consist of file cards, data processing cards, addressograph plates or such other form (in combination or otherwise) as may be authorized by the secretary of state." [Emphasis supplied.]

K.S.A. 25-2320 directs in pertinent part as follows:

"County election officers shall provide a reasonable number of copies of *registration records*, not to exceed five (5), to the chairman of any political organization or central committee upon written request therefor by such chairman." [Emphasis supplied.]

In an opinion dated June 2, 1970, Attorney General Kent Frizzell stated thus:

"We interpret this language to mean that copies of registration records may be furnished in whatever form or manner such records are maintained. Therefore, it would be appropriate to furnish a tape of such records where a data processing system is being utilized."

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In an opinion dated March 7, 1972, we discussed that opinion, and elaborated on the application of K.S.A. 25-2320 to computer tapes. We took the view that such tapes constituted a medium for storage of information, from which it is retrieved via so-called "print outs." We stated thus:

"In our opinion, magnetic tapes upon which registration information is stored, and from which it is retrieved, are not themselves those 'copies' of records which the county election officer is required to furnish under K.S.A. 25-2320."

"Registration books" as described and authorized in K.S.A. 25-2304 and "registration records" in K.S.A. 25-2320 refer, clearly, to the same body of records. K.S.A. 25-2304 authorizes registration books to be maintained on, inter alia, addressograph plates or data processing cards or such other form as the Secretary of State may authorize. Clearly, magnetic tape may be used purely for storage purposes, and the registration records maintained in some other form, such as data processing cards, as authorized by K.S.A. 25-2304. Where this is so, these cards constitute the registration records, copies of which must be furnished under K.S.A. 25-2320. Attorney General Frizzell correctly stated that "copies of registration records may be furnished in whatever form or manner such records are maintained."


When data processing is used, the actual registration records may well be maintained on computer tapes. If this is so, it must be furnished pursuant to K.S.A. 25-2320. The distinction sought to be made in our opinion of March 7, 1972, that computer tapes are used solely for storage of information, and thus do not constitute records, appears, on further consideration, somewhat artificial. Any record, whether written, magnetic or otherwise, is technically a form of information storage. If information is maintained in a manually written ledger, that ledger is at once a form of information storage, and a record of that information. If data is recorded on a magnetic computer tape, that tape is likewise both a medium for storage of that data, and a record of that information. Each is equally a record, and each is equally subject to the requirements of K.S.A. 25-2320 when used as the form in which registration records are maintained by the county election officer.

Indeed, depending upon the practices of a particular election officer, a data processing tape may, in some instances, constitute the primary record, as it were, from which all lists are prepared for the use of election boards and other responsible officers in the conduct of elections. We have no information whether, acting under K.S.A. 25-2302, the Secretary of State has authorized data processing tapes to be used for the keeping of registration books. Given their widespread use in the state,

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we assume that such permission has been granted. We cannot but conclude that if registration records are maintained on data processing tapes, that such tapes constitute records, copies of which are required to be furnished under K.S.A. 25-2320.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm