

COUNTY HEALTH CENTERS: The several counties of Missouri are liable for all the expense of holding a general election in this State at which County Health Center Trustees are elected.

ELECTION EXPENSES:



April 25, 1953

Honorable Harry C. Watkins
Clerk of the County Court
Scott County
Benton, Missouri

Dear Mr. Watkins:

This will be the opinion you requested from this office whether the Trustees of the County Health Center of Scott County, Missouri, are authorized by law to direct payment out of the Health Center funds of said county of expenses of printing ballots and ballot publication pertaining to the election of Trustees of such County Health Center incurred at the general election in 1952 in said county. Your letter submitting this question to this office for an opinion states:

"After the 1952 General Election bills of expense in connection with the printing of ballots and ballot publication pertaining to the election of health center trustees, as provided in House Bill No. 307, 66th General Assembly, were referred to the board of trustees of the county health center for payment.

"The board of trustees declined to pay such expense bills resulting from the election and later suggested that the Prosecuting Attorney request an official opinion from your office as to whether or not the board had authority to pay these bills. In reply, the Prosecuting Attorney advised the board that the question was so academic he did not feel justified in asking for the opinion.

"Since the board of trustees of the county health center still declines to pay such bills, I am directed by the County Court to ask that you consider this letter as a formal request for

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opinion as to whether or not it is permissible for board of trustees of the county health center to authorize payment, from health center funds, of bills of expense covering the printing of the ballots and official publication of such ballot in connection with the election of health center trustees under House Bill No. 307, 66th General Assembly."

Section 205.040, Laws of Missouri, 1951, Page 781, in Subsection 1, provides that candidates for the offices of County Health Center Trustees shall each file with the Clerk of the County Court announcement of candidacy for such office; that if there is not a sufficient number of announcements for Trustees filed, the County Court shall appoint Trustees to fill all vacancies on the Board who shall serve until the next general election; and in Subsection 2 it is provided that the County Court shall prepare a separate ballot for the use of voters for election of Trustees, said section upon such requirements reads, in part, as follows:

"1. Each candidate for the office of health center trustee shall file with the county clerk an announcement of candidacy in writing not later than thirty days before the general election. The announcement shall indicate whether the individual is a candidate for a full or an unexpired term of a named predecessor. No filing fee shall be required to be paid upon the filing of any announcement. If announcements of a sufficient number of trustees are not filed, the county court shall appoint such trustee or trustees as may be necessary to fill all vacancies on the board which result from the expiration of the term of any trustees and any such appointee shall serve until the next general election when a trustee shall be elected to fill the remainder of the unexpired term.

"2. The county court shall prepare a separate ballot containing the names

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of all candidates who have announced for trustee which shall not contain any designation of the political party affiliation of any candidate for trustee. The ballots shall designate the number of trustees to be elected and shall state whether any of the trustees is to be elected for an unexpired term, and shall be in form substantially as follows:"

Subsection 3 of said Section 205.040, Laws of Missouri, 1951, Page 782, respecting the furnishing of ballots and the return of the vote by the election officials of the election of County Health Center Trustees, reads as follows:

"3. Such ballots shall be furnished to the election officials of each precinct in the county and shall be voted by the qualified voters therein in the same manner as other ballots are furnished and voted. The election officials shall make return of the vote for candidates for trustee to the county court in the same manner as required for the return of the vote for candidates for other offices. The candidates receiving the highest number of votes for the offices of trustee to be filled shall be declared elected by the county court which shall issue commissions to the elected trustees."

The terms quoted from Section 205.040, Laws of Missouri, 1951, Page 781, clearly establish that the offices of Trustees of County Health Centers are public offices. We observe from Subsection 1 of said Section 205.040, that each candidate for the office of Health Center Trustee must file with the County Clerk an announcement of his candidacy, in writing, not later than thirty days before the general election. This is the procedure required of all other public officers in every county of this State who become candidates for public office in primary nominating elections. The Legislature had the undoubted right in its purpose and design to remove County

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Health Center Trustees and their elections from political affiliations to require the declaration of the candidacy of each Trustee to be filed thirty days before the general election at which such offices would be filled by the voters of the county. This the Legislature did in said Subsection 1 which requires Trustees of the offices of County Health Centers to be filled at the general election.

Subsection 2 of said Section 205.040, provides that the County Court shall prepare the ballot and the form of the ballot to be used at the general election for filling the offices of Trustees of County Health Centers.

Subsection 3 of said Section 205.040, provides that such ballots to be voted by the electors to fill the offices of County Health Center Trustees shall be furnished to the election officials of each precinct in the county and shall be voted by the qualified voters therein in the same manner as other ballots are furnished and voted. This, we believe, undoubtedly means that such ballots are to be furnished and voted under the general election laws of this State. Said Subsection 3 further provides that the election officials shall make return of the vote for candidates for such Trustees to the County Court in the same manner as required for the return of the vote for candidates for other offices. This, too, means that the same methods shall be used by the election officials and such duties in the casting up of the votes for such Trustees shall be performed by the same officers and in the same manner as are votes cast up for other officers. Said Subsection 3 further provides that the candidates receiving the highest number of votes for the offices of Trustees shall be declared elected by the County Court which shall issue commissions to the elected Trustees.

Your letter states that the expense of printing ballots and ballot publication occurred incident to the election of County Health Center Trustees in your county in connection with the general election held in 1952 in said county.

Section 1 of Article VIII of the Constitution of Missouri, 1945, fixes the time of the general election in this State as follows:

"The general election shall be held on the Tuesday next following the first Monday in November of each even year, unless a different day is fixed by law, two-thirds of all members of each house assenting."

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Subsection 2 of Section 1.020, RSMo 1949, defines "general election" as follows:

"'General election' means the election required to be held on the Tuesday succeeding the first Monday in November, biennially."

There are numerous sections of Chapter 111 of the Revised Statutes of Missouri, 1949, under the title of "Suffrage and Elections", providing that every kind of expense incident to the preparation for and the holding of a general election shall be borne by the respective counties in this State. We are here concerned specifically under your request in determining who shall pay the cost of printing ballots and ballot publication pertaining to the election of County Health Center Trustees. Section 111.400, providing for the printing, distribution and payment therefor of ballots at elections for public officers which, of course, would include the separate ballot for use in voting for County Health Center Trustees, reads as follows:

"All ballots cast in elections for public officers within this state shall be printed and distributed at public expense, as herein provided. The printing of the ballots and of the cards of instruction for the electors in each county, and the delivery of the same to the election officers, as provided in section 111.480, shall be a county charge, except where the officers to be voted for are exclusively city officers, in which case such printing and delivery shall be a city charge, the payment of which shall be provided for in the same manner as the payment of other county or city expenses."

The last above quoted statute of the election laws of this State makes it conclusive that the expense of printing the ballots and holding general elections in the counties in this State must be paid by the county whether the duty performed which incurs such expense is performed by the County Court, or the County Clerk. It is, therefore, plain that the county is liable for the expense incurred in preparing for and in holding a general election at the time

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fixed by the Constitution and the statutes cited herein, including the election of Trustees for County Health Centers in any such county, and that, since there is no section within the County Health Center Act, Laws of Missouri, 1951, Pages 779 to 784, inclusive, imposing the duty or obligation upon the County Health Center to pay for any items of such costs, the Trustees of such County Health Centers in the several counties of this State are not liable therefor, and have no authority to pay, or direct the payment, out of the County Health Center Funds the expense of printing the ballots or ballot publication pertaining to the election of County Health Center Trustees in Scott County, Missouri, at the general election in 1952.

As stated hereinabove, there are numerous other sections of Chapter 111, respecting the conduct of general elections, which provide that the various items of expense shall be paid by the respective counties of the State holding such election. Section 111.350, RSMo 1949, provides that judges and clerks of the election and in returning the poll books and ballots to the County Clerk's office shall be paid out of the county treasury.

Section 111.480, RSMo 1949, provides that the County Clerk shall cause the sheriff of the county or his deputy to transfer ballots to the judges of election before the polls are open, such officer to be allowed reasonable compensation therefor, to be provided for by the County Court.

Section 111.490, RSMo 1949, requires the sheriffs of their respective counties to provide ballot boxes at the expense of their counties for general elections. These are some, if not all, of the separate sections of the election laws imposing the cost of holding general elections upon the counties. There is no statute in this State to the contrary.

CONCLUSION

It is, therefore, the opinion of this office, in conformity with the provisions of the County Health Center Act, Laws of Missouri, 1951, Page 779 (H.B. 307--66th General Assembly) and in conformity with the general election laws of this State, set forth in Chapter 111, RSMo 1949, some sections of which and parts of other sections of such chapters have been quoted herein, that the respective counties in this State, where candidates for the offices of Trustees

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of the County Health Centers are to be elected, are liable for and are obligated to pay the expense covering the printing of the separate ballots in connection with the election of County Health Center Trustees, and that such County Health Center Trustees have no authority to pay or to order the payment out of the County Health fund of any of the expense incident to such election, including the printing of such ballots or the official publication thereof.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. George W. Crowley.

Yours very truly,

JOHN M. DALTON
Attorney General

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