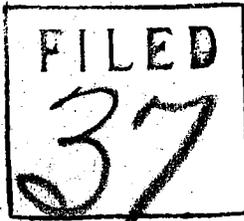


ELECTIONS: The state would not be liable for the cost of conducting the election on the school foundation bill and cigarette tax in a county wherein a vacancy in the office of state representative is filled in the same election.



April 10, 1956

Honorable Everett Harris
Representative, Sullivan County
State Capitol Building
Jefferson City, Missouri

Dear Mr. Harris:

Reference is made to your recent request for an official opinion of this office, which request reads as follows:

"As you may know a vacancy existed in the office of representative from Sullivan County, and last October the Governor called the special election to fill this vacancy on the same date upon which the foundation school bill and the cigarette tax were voted upon.

"A dispute has arisen as to whether the state of Missouri should pay all of the cost and expense of such election because the same election judges and clerks at each voting precinct were used, not only on the vote taken upon the foundation school bill and the cigarette tax, but also upon the election for representative from said county."

Section 111.405, RSMo Cum. Supp. 1955, provides as follows:

"That hereafter when a question is submitted to a vote of all of the electors throughout the state, and no other question is submitted for a vote at the same election, all costs of such election shall be borne by the state, and after audit by the state comptroller, the state treasurer shall pay the amounts claimed by and due the respective political subdivisions out

Honorable Everett Harris

of any moneys appropriated by the legislature for that purpose."

Said section authorizes and directs the state to bear the cost of an election wherein a question is submitted to a vote of all the electors throughout the state and no other question is submitted for a vote at the same election.

In a recent opinion to Newton Atterbury, State Comptroller and Director of the Budget, under date of February 24, 1956, this office had occasion to consider the term "same election." It was there stated that the "same election" was one in which the same state election officials (judges and clerks) are required, under applicable statutes, to conduct the vote on the special issues. A copy of said opinion is enclosed herewith.

The same election officials would be required to conduct a special election to fill a vacancy in the office of state representative as well as the vote on the school foundation bill and the cigarette tax election if said issues were submitted on the same day. Therefore, we are of the opinion that the state would not be liable for the cost of conducting an election on the state-wide issues in your county since another issue was submitted for vote at the same election.

CONCLUSION

It is, therefore, the opinion of this office that the state would not be liable for the cost of conducting the election on the school foundation bill and cigarette tax in a county wherein a vacancy in the office of state representative is filled in the same election.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Donal D. Guffey.

Yours very truly,

John M. Dalton
Attorney General

Enclosure(1)

DDG:mw