

CITIES OF THE THIRD CLASS: Mayor not disqualified from election or holding ~~State~~ office. *Said*

5-13  
May 8, 1935.



Honorable John H. McNatt  
Prosecuting Attorney  
St. Louis County  
Clayton, Missouri

Dear Sir:

We acknowledge your request for an opinion dated April 20, 1934, which is as follows:

"I would like to know what the qualifications for the Mayor are in a city of the 3rd class. Whether or not he must be a county and State tax payer to be qualified?"

Section 6724 R. S. Mo. 1929, provides as follows:

"No person shall be mayor unless he be at least thirty years of age, a citizen of the United States and a resident of such city at the time of and for two years next preceding his election. When two or more persons shall have an equal number of votes for the office of mayor, or an election for mayor be contested, the matter shall be determined by the council."

Section 6743 R. S. Mo. 1929, provides as follows:

"All officers elected or appointed to offices under the city government shall be qualified voters under the laws and Constitution of this state and the ordinances of the city, and, except the city sextons, must be residents of the city. No person shall be elected or appointed to any office who shall at the time he be in arrears for any unpaid city taxes, or forfeiture or defalcation in office."

May 8, 1935.

Section 6969 R. S. Mo. 1929, relating to cities of the 4th class is in the exact words of the above section which relates to cities of the third class.

This office rendered an opinion on May 11, 1934, to Honorable Leo Politte, wherein we held that by reason of Section 6969 R. S. Mo. 1929, one elected to the office of mayor in cities of the fourth class, who on election day is in arrears for unpaid city taxes is "ineligible to be elected and incapable of gaining such public office by election."

We are enclosing herewith a copy of said opinion which we believe properly states the law for cities of the third class as far as eligibility to the office of mayor is affected by delinquency in city taxes.

#### CONCLUSION.

We are of the opinion that the qualifications for mayor in cities of the third class are that he be thirty years of age, a citizen of the United States and a resident of the city at the time of the election, and that he have his city taxes paid up on election day. We are further of the opinion that he does not have to be a State and County tax payer in order to qualify for said office.

Sections 6724 and 6743, supra, are the only sections of law providing the qualifications of mayor in cities of the third class. In construing these sections it is evident that when the Legislature was setting down the qualifications for the office of mayor they had no idea of making State and County tax payers the only persons eligible to the high office or they would have said so when they were on the subject of tax paying.

The object of the law relating to government of cities of the third class was to provide good government within the political subdivision. The Legislature realized that one may have a common interest in and an attachment to a city of the third class and still not be a State and County tax paying citizen. They realized that a State and County tax receipt is no index to respectability, and so the Statutes of 1879, Section 4833 requiring that a mayor in a city of the third class "must possess a freehold estate," was repealed in the laws of 1881, and the

Hon. John H. McNatt

-3-

May 8, 1935.

property requirement for holding said office ceases to exist to this day.

Respectfully submitted

WM. ORR SAWYERS  
Assistant Attorney General.

APPROVED:

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ROY McKITTRICK  
Attorney General.

WOS:H