

COUNTY CLERKS: Unnecessary for County Clerk to advertise  
BALLOTS: for bids for printing of ballots for election.  
ELECTIONS:  
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June 12, 1944



Honorable Shelton Williams  
County Clerk  
Pike County  
Bowling Green, Missouri

Dear Sir:

This will acknowledge receipt of your request for  
an opinion, which reads:

"I would like to have an opinion from your office as to whether a County Court can require a County Clerk to Advertise, For Bids on Election Ballots, To be printed, For Co. elections. Especially the War Ballots To be used, For service men. The Pike County Court has issued an order requesting me to Advertise for bids on war ballots, which may delay me in having such ballots ready in time to comply with the law.

"Owing to the shortage of paper this places me in rather a peculiar circumstance, I would appreciate your advice on this matter, as soon as possible."

It is my understanding that you discussed the matter with Mr. Gaylord Wilkins, an Assistant Attorney General in this department, who advised you that there was no

provision in the law whereby the County Court could require a County Clerk to advertise for bids on printing ballots for the election, and that you, under the law, are not required to advertise for bids.

Section 11593, R. S. Mo. 1939, provides that ballots shall be printed and distributed at public expense.

Section 11594, R. S. Mo. 1939, further provides that it shall be the duty of the Clerk of the County Court, except as in this article otherwise provided, to provide printed ballots for every election.

Section 11596, R. S. Mo. 1939, provides that the Clerk shall furnish printed ballots whenever the Secretary of State has duly certified to the Clerk any proposition to be submitted to a vote of the people.

The Sixty-second General Assembly in Extraordinary Session passed the following bills relative to furnishing absentee ballots.

Senate Bill No. 2, Sec. 11472, which is an entirely new provision in the law, and reads in part:

"\* \* \* The official charged by law with printing and supplying ballots under the general election laws of this state, shall, at least thirty days before any election held under the provisions of this article, cause to be printed and supplied a sufficient number of ballots to be designated as "official absentee ballots" to be furnished such absentee voters under the provisions of this article."

Senate Bill No. 4, Sec. 11558, is another new provision which reads in part:

"At least forty days before the August primary in any year, when a primary election

is held, each county clerk shall prepare sample official ballots, placing thereon alphabetically, under the appropriate title of each office and party designation, the names of all candidates to be voted for in the precincts of his county. Such sample ballot shall be printed upon tinted or colored paper, and shall contain no blank endorsement or certificate. Such clerk shall forthwith submit such ticket of each party to the county chairman thereof, and mail a copy to each candidate to his post office address, as given in his declaration paper, and he shall post a copy of each sample ballot in a conspicuous place in his office. On or before the tenth day before the holding of any primary election the county clerk shall correct any errors or omissions in the ballots, cause the same to be printed and distributed, as required by law in the case of ballots for the general election, except that the number of ballots to be furnished to each precinct shall be one and a half times the number of votes cast by any party in the last preceding election and having nominees and tickets at such primary election."

Senate Bill No. 6, Sec. 3, is also a new provision in the law, and reads in part:

"Within twenty days after the time for filing candidates' affidavits for nomination for primary election has expired, and within thirty days after the primary election, it shall be the duty of the clerks of the county courts, or the boards of election commissioners in precincts where such boards conduct elections, to have 'official war ballots' printed for

use by the absentee electors described in this Act. The maximum size and weight of the ballot for all elections for all parties shall be prescribed by the Secretary of State. The form and contents of such ballot shall comply with the primary and general election laws as they now or hereafter may exist, except as to the instructions required to be placed on primary and general election ballots, and except that the ballot for primary elections for all parties shall consist of a single sheet of paper and shall be in substantially the following form: \* \* \* \* \*

Sec. 5 of the same Senate Bill reads:

"The clerks of the county courts and the boards of election commissioners in cities or counties where such boards conduct elections shall cause to be prepared and printed an appropriate number of official envelopes for use in connection with official war ballots, each such envelope shall be gummed ready for sealing. Such envelopes shall be of two types and sizes. They shall be used for the following purposes and shall comply substantially with the form hereinafter set out.

"One envelope shall be sufficiently large to contain the second or smaller envelope after the official war ballot has been inserted into the smaller envelope. The larger envelope shall be used for transmitting the smaller envelope and ballot to the absentee elector and shall have printed on the front thereof substantially the following: \* \* \* \* \*

We have carefully examined the foregoing statutes, and others, and no where are we able to find any statutory authority for the County Court to require the County Clerk to adver-

tise for bids to print ballots for election.

The law is well established that such an officer as the County Clerk, who is a statutory officer, has only such authority as vested in him by the statutes and the Constitution.

CONCLUSION

Therefore, it is the opinion of this department, that in the absence of any law requiring the County Clerk to advertise for such bids there is no duty on him to do so.

Respectfully submitted,

AUBREY R. HAMMETT, JR.  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

ARH:CP