

ELECTIONS:

Under the provisions of Section 111.405, RSMo Cum. Supp. 1955, the state may properly pay all necessary costs and expenses of election incurred in conducting the October 4, 1955, and January 24, 1956, elections if no other question is submitted to a vote at the "same election." The term "same election" as used in Sec. 111.405, supra, refers to an election which is required by law to be conducted by the same election officials.



February 24, 1956

Honorable Newton Atterbury  
Comptroller and Budget Director  
Capitol Building  
Jefferson City, Missouri

Dear Sir:

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

"Section 111.405, page 168, Mo. Revised Statutes, Cumulative Supplement 1953, reads 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 of any moneys appropriated by the legislature for that purpose."

"We assume that the election of October 4, 1955, is of the type covered by the law above quoted. We would like to ask your help on the following:

"(1) Is it proper for the State under the section of the law above quoted to pay the costs of elections such as the one held October 4, 1955, and the one called by the Governor to be held January 24, 1956?"

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"(2) Under the provisions of Section 111.405 would any, or a portion of any county's expense, be paid if in that county other issues were voted on at the same time and place as was the vote for the special election. We have in mind instances where a representative, a senator or any other matter was presented to the voters of a county and voted on.

"(3) There had not been a special election in Missouri prior to the one on October 4, 1955, since the special election held in 1934. The section of the law which applies to the payment of expenses of a special election was not approved by the Governor until March 4, 1952. Basing our opinion on the various accounts which have come to this office, we believe the county clerks will need legal guidance in order to know just what expenses will be properly borne by the State. We would very much appreciate it if you would prepare an opinion for us stating the various items of expense that could be sent to the State for certification and payment, giving rates of pay and limits where they exist. The Auditor's office and the Comptroller's office could then prepare a form to be sent to each county, listing the various types of expenditures and in the form that we have previously used for certification to the State by the Clerk of the County Court. We believe the clerk of each county court should have a copy of the opinion we have requested."

You first inquire whether the provisions of Section 111.405, RSMo Cum. Supp. 1955, authorizes the state to pay the expenses incurred in conducting the special referendum held October 4, 1955, and the special election held January 24, 1956. We are enclosing herewith an opinion of this office to Honorable J. Marcus Kirtley, county counselor of Jackson County, under date of July 27, 1955, which holds that said section is applicable to the special election held October 4, 1955. Said statutory provision would, likewise, be applicable to the special election held January 24, 1956.

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You next inquire whether the state would be liable for the expenses of such an election if other issues were voted upon at the same time, such as a vote for the election of a state senator or representative. You will note that the state is required to bear the expenses of a state-wide election when no other question is submitted for a vote at the "same election." This office recently issued an opinion to Frank D. Connett, Jr., prosecuting attorney of Buchanan County, Missouri, holding that a municipal bond election held on the same day as the January 24, 1956 special election, did not constitute the "same election" as that term is used in Section 111.405, RSMo Cum. Supp. 1955. A copy of said opinion is enclosed herewith.

We understand the term "same election" to be one in which the same state election officials (judges and clerks) are required under applicable statutes, to conduct the vote on the special issues. For example, the election of a state representative or senator would be conducted by the same election officials and under the same general election laws as the special election held on October 4, 1955, or the special election held on January 24, 1956, and if the same was conducted on the same day we believe that it would be the "same election" as that term is used in the statute here under consideration.

Lastly, you inquire what election expenses could be properly paid by the state under said statute. It would be an extremely difficult task to undertake herein an extensive review of the voluminous statutory provisions relating to elections in the various classes of counties in an attempt to anticipate all of the questions which might arise in regard to what are proper election expenses. In view of such fact, we will here undertake only to direct your attention to certain of the more common expenses in a general way and reserve for later determination other questions presented as the occasion may arise. Limitations as to the following expenses, where limitations exist, are indicated, together with statutory citations.

(1) Judges and clerks of election shall be allowed for their services in conducting elections and returning the poll books and ballots to the county clerk's office, such compensation not to exceed \$6 per day as to the county court may seem reasonable. (Additional compensation may be allowed in precincts wherein more than 600 votes are cast.) Section 111.350, RSMo 1949.

(2) The sheriff or his deputy shall be allowed "reasonable compensation" for delivering the ballots to the judges of election of each election district. Section 111.480, RSMo 1949.

(3) The expenses of preparing polling places including rental. Section 111.530, RSMo 1949.

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(4) The cost of printing ballots. Section 111.440, 112.030, 112.330.

(5) The cost of election supplies (instructions to voters, tally sheets, etc.).

(6) Costs of publishing notice of election.

(7) Postage. (In re: Absentee ballots and returning poll books.)

(8) Expenses of messenger at the rate of ten cents per mile for returning poll books to the county clerk. Section 111.690.

#### CONCLUSION

Therefore, it is the opinion of this office that under the provisions of Section 111.405, RSMo Cum. Supp. 1955, the state may properly pay all necessary costs and expenses of election incurred in conducting the October 4, 1955, and the January 24, 1956, elections if no other question is submitted to a vote at the "same election."

We are further of the opinion that the term "same election" as used in Section 111.405, refers to an election which is required by law to be conducted by the same election officials.

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

(2) Opinions enclosed to:  
J. Marcus Kirtley, July 26, 1955.  
Frank D. Connett, Jr. January 20, 1956.

Yours very truly,

John M. Dalton  
Attorney General