

ELECTIONS: County clerk not required under Chapter 116 to
publish notice that registration books will be
COUNTY CLERK: closed for a period of 28 days before election.
Cost of publication of such notice is not a
proper expense of the county.

May 6, 1960



Honorable Frederick E. Steck
Prosecuting Attorney
Scott County
Scott County Milling Co. Building
Sikeston, Missouri

Dear Mr. Steck:

We have your request for an opinion of this office,
which request reads as follows:

"I would like an opinion as to whether or
not it is the obligation of the County
Clerk to run a registration notice for a
city election which pertains only the the
City of Sikeston. An example of such a
notice is as follows:

'Notice to Voters - Registration
Books for the City of Sikeston,
Missouri will be closed 28 days
prior to City election. You must
be registered before this time to
be eligible to vote in said elec-
tion.'

"I would further like to know if it is the
obligation of the County to pay for such a
notice or is it the obligation of the City."

Registration of voters in the City of Sikeston is governed
by Chapter 116, V.A.M.S. Section 116.030 provides, in part, as
follows:

"Any qualified elector who registers as
herein provided shall be entitled to vote
in the election precinct where his or her

Honorable Frederick E. Steck

name is registered and in which he or she is registered as a resident. Any such person shall register for the purpose of the first general registration herein referred to under the supervision of the county clerk of the county in which any such city may be located. The county clerk of such county shall be in charge of such general registration and all other registrations provided for by this chapter. The said county clerk and his deputies shall have the power to administer oaths and perform all other duties necessary to carry out the provisions of this chapter. * * * The county clerk's office shall be open for permanent registration at all times that such office is open for other business, Sundays and holidays excepted. No person shall be entitled to register within a period of twenty-eight days prior to any election in which the registration records provided for in this chapter are to be used. * * *

The powers and duties of the county clerk as the official in charge of registration "are regulated entirely by constitutional and statutory provisions." 29 C.J.S., Elections, Section 43, Page 63. We find no requirement in Chapter 116 or elsewhere that the county clerk publish a notice of the nature set out in your inquiry. There are in Chapter 116 provisions for the publication of certain notices. Thus, Section 116.050 requires the county clerk to publish the location of places of temporary registration. Section 116.090 requires him to publish the list of names of voters not found on canvass or otherwise improperly registered.

Inasmuch as the legislature has made express provisions for such publication but has not seen fit to require the county clerk to publish notices of the nature here under consideration, we are of the opinion that the county clerk is under no obligation to publish such notice.

As for the liability of the county for the costs of publication of such notice, should it be published, Section 116.050, V.A.M.S. contains the following provision:

Honorable Frederick E. Steck

"The county court shall provide for and pay * * * all other expenses necessarily incurred under the operation of this chapter."

As we have previously pointed out, there is no requirement for the publication of a notice such as this and we are of the opinion that the expense of such publication would, therefore, not be an expense necessarily incurred under the operation of Chapter 116. In our opinion, the expenses referred to in Section 116.050, supra, are those required to be incurred in the carrying out of the duties imposed under the chapter and where there is no duty imposed there is no liability for expenses. In this connection, it is our opinion that the phrase "expenses necessarily incurred" does not include desirable or convenient expenditures but only those required. See State ex rel. v. Hackmann, 275 Mo. 636, l.c. 650.

Inasmuch as your official concern in this matter is limited to the county's obligation, we will not go into the question of whether or not the cost of publication of such notice would be a proper obligation of the City of Sikeston.

CONCLUSION.

Therefore, it is the opinion of this office that the county clerk in a county wherein registration of voters is held under Chapter 116, V.A.M.S., is not required to publish notice that the registration books will be closed for a period of twenty-eight days prior to a municipal election. We are further of the opinion that should such notice be published by the county clerk, the expense of such publication would not be a proper obligation of the county.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Robert R. Welborn.

Yours very truly,

JOHN M. DALTON
Attorney General

RRW:mc