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Answer by letter-Chitwood

March 4, 1969

OPINION LETTER NO. 132

Honorable Albert F. Turner
Prosecuting Attorney
Wright County
Mountain Grove, Missouri 65711

Dear Mr. Turner:

This letter is in response to your request for an opinion upon the inquiry as to who pays the cost of an election for the formation of a hospital district when the larger portion of the proposed district is located in Wright County and a small portion is located in Douglas County. You further inquire if the Wright County Court orders the election held in the affected portion of Douglas County, who selects the judges and clerks of election and who pays them.

Sections 206.010 to 206.160, RSMo Cum. Supp. 1967, known as "The Hospital District Law" contains the statutory provisions relative to the creation, powers and duties of a hospital district.

Sections 198.200 to 198.350, RSMo Cum. Supp. 1967, known as "The Nursing Home District Law" contains the statutory provisions relative to the creation, powers and duties of a nursing home district.

Upon comparison of the Hospital District Law with the Nursing Home District Law, they are found to be basically the same, with only minor differences made necessary by reason of the particular kind of district involved.

The request for an opinion of this office by the Prosecuting Attorney of Caldwell County, Missouri, was answered by letter No. 416 to Paul Knudsen dated October 17, 1963. Said request was in regard to formation of a nursing home district which included territory in one county and a smaller portion of territory in an adjoining county.

Honorable Albert F. Turner

Among other matters it was concluded in said letter that the "declaring county court" or the one with the larger portion of territory and in which the petition for establishment of the district was filed should pay the expense of an election to vote on the proposition as to whether or not the hospital district should be established. Both the factual situation and statutes involved in said letter are so similar to those of the present inquiry as to be applicable thereto (copy enclosed).

From the present letter of inquiry it appears the petition for establishment of a hospital district was filed with the Wright County Court, and it also appears Wright County contains the larger portion, while adjoining Douglas County contains a lesser portion of territory of the proposed district.

In the event the Wright County Court finds the petition to be sufficient, it shall enter its order declaring the petition to be sufficient, and order an election to vote upon the proposition as to whether or not a hospital district shall be established. Such election is to be held within the time provided by Section 206.050.

Section 206.060 requires the County Court in which the petition is filed to give written notice of election to be posted within the time and manner therein provided and within the proposed district and provides what the contents of such notice shall be. Said notice shall briefly state the purpose setting forth the proposition to be voted upon at the election, form of ballot to be used, description of the territory, setting forth the election precincts and designating the polling places therefor.

From the power given the county court to issue such a detailed notice of election, particularly to require the notices posted at various locations in the district and to specify the precincts and polling places therein, it is our view that such court is empowered to select the judges and clerks of such election for each precinct in said district, even though the territory of the district is located in more than one county.

In view of provisions of above cited statutes and for reasons given in the attached letter, it is our opinion that if the petition presented to the Wright County Court is found to be sufficient by it, the court has the mandatory duty of ordering the election to be held for the proposed district including territory in both Wright and Douglas counties. It is our further opinion that said Wright County Court shall appoint judges and clerks of election for each precinct of such proposed district and that Wright County shall pay the cost of election, including that of all judges and clerks who serve at such election.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 416
10-17-63, Knudsen