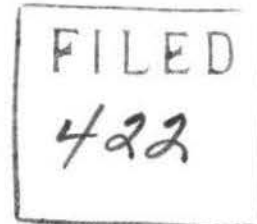


Answer by Letter (Klaffenbach)

July 20, 1970

OPINION LETTER NO. 422



Honorable Patrick J. O'Connor
State Representative, 30th District
4252 Brampton
Bridgeton, Missouri 63042

Dear Representative O'Connor:

This letter is in response to your opinion request which you ask whether Section 8.05 of the City Charter of Bridgeton, Missouri is constitutional and also in which you ask whether such section prohibits an employee of the city, who resides in another municipality, from becoming a candidate for office in the municipality in which he resides.

Section 8.05 states:

"No person seeking employment by the city or promotion in employment shall either directly or indirectly give, render, or pay any money, service or other thing of value to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion, or proposed promotion.

No employee of the city other than elected officials shall continue in such employment after becoming a candidate for any public office.

The provisions of this section may be enforced

Honorable Patrick J. O'Connor

in any court of competent jurisdiction, and upon conviction of violating or conspiring to violate the provisions hereof, a person shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). The conviction of any employee of such offense shall operate automatically to terminate his service. Any employee so removed shall not be reinstated into city service."

In answer to your first question concerning the constitutionality of the section quoted, it is our view that this section has no constitutional infirmity. We note that the provisions are similar to those relating to the State Merit System, Section 36.150 RSMo. 1959, which prohibits a merit system employee from being a candidate for nomination or election to any public office and we do not question the constitutionality of such provisions.

With respect to your second question concerning whether that section of the charter prohibits such an employee from becoming a candidate for office in another municipality in which he resides, it is our view that the question is strictly local in nature, and for that reason, this office should not pass upon the interpretation of the charter. We suggest, however, that, again by comparison with the State Merit System Law the terminology "any public office" as contained in the charter provision is identical to the language "any public office" as contained in Section 36.150 which has been given a broad interpretation.

We enclose Opinion No. 45, dated May 1, 1953, to Mr. James, which interprets the pertinent State Merit System provisions.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure