

ELECTIONS: Defeated candidates in primary elections must file statements of expenses in accordance with Section 10482, R.S. 1929. Successful candidates in primary must also file statements within 30 days after primary.

August 20, 1938



Hon. B.G. Dilworth
Prosecuting Attorney
Dent County
Salem, Missouri

Dear Sir:

This will acknowledge receipt of your letter of recent date which reads as follows:

"I would like to have the opinion of your department concerning sections 10481, 10482, 10483, and 10484 concerning whether or not a defeated candidate in the primary election must file his statement of expenses, as mentioned in the above sections. Also, as to whether or not a successful primary candidate, who is a party nominee, must file his statement of expenses for the primary election within thirty days thereafter, or whether such nominee may wait until thirty days after the general election, and then file such statement as is required by said sections, such statement then to be in consolidated form for both primary and general elections.

I will appreciate your prompt response to this inquiry in view of the fact that thirty days from the primary will fall on September 2."

I.

Section 10482, R.S. Missouri, 1929, reads as follows:

"Every person who shall be a candidate before any caucus or convention, or at any primary election, or at any election for any state, county, city, township, district or municipal office, or for senator or representative in the general assembly of Missouri, or for senator or representative in the congress of the United States, shall, within thirty days after the election held to fill such office or place, make out and file with the officer empowered by law to issue the certificate of election to such office or place, and a duplicate thereof with the recorder of deeds for the county in which such candidate resides, a statement in writing, which statement and duplicate shall be subscribed and sworn to by such candidate before an officer authorized to administer oaths, setting forth in detail all sums of money, except all sums paid for actual traveling expenses, including hotel or lodging bills, contributed, disbursed, expended or promised by him, and, to the best of his knowledge and belief, by any other persons or person in his behalf, wholly or in part, in endeavoring to secure or in any way in connection with his nomination or election to such office or place, or in connection with the election of any other persons at said election, and showing the dates when and the persons to whom and the purposes for which all such sums were paid, expended or promised. Such statement shall also set forth that the same is as full and explicit as affiant is able to make it. No officer authorized by law to issue commissions or certificates of election shall issue a commission or certificate of election to any such person until such statement shall have been so made, verified and filed by such persons with said officer."

It will be seen by the foregoing section that "every person who shall be a candidate * * * * shall, within thirty days after the election held to fill such office or place, make out and file * * * * a statement in writing * * * *". It seems to us that this statute plainly requires every person who was a candidate to file the statement. The statute is part of what is known as the corrupt practice act and is designed to assist in bringing about clean elections and to abolish bad political practices. There would seem to be no reason why a candidate who had violated the provisions of Section 10481 of said corrupt practice act should not be required to expose the practices which he used in the election, regardless of whether he was successful or not. It would be hard to stamp out the evils defined in Section 10481 if only one person out of those running had to disclose the practices which he adopted in the election, and for that reason, the Legislature required every person who was a candidate to file a statement of his campaign expenses in order that the public and the officers of the state might know just what took place in the way of expenditure of money in the election. It would be just as inimical to the interests of good government to expend too much money in a primary election as it would be to expend too much money in a general election.

CONCLUSION

It is, therefore, the opinion of this office that a defeated candidate in a primary election must file his statement of expenses in accordance with Section 10482, R.S. Missouri, 1929, within thirty days after said primary.

II.

Your next question is whether the successful candidate at a primary election may wait until after the general election to file his statement of all money expended by him or in his behalf in both the primary and general elections. In other words, can the successful candidate at the primary election wait until after the general election and then file a combined statement covering both elections? As pointed out above, the statute, Section 10482, R.S. Missouri,

August 20, 1938

1929, requires every person who shall be a candidate to file said statement within thirty days after the election held to fill such office or place. The successful candidate was, of course, a candidate at the primary. He, therefore, would be required to file his statement along with all others who had been candidates at such primary. No exception is made in the statute in favor of the successful candidate waiting to file his statement until after the general election.

CONCLUSION

It is, therefore, the opinion of this office that a successful candidate at a primary election must file his statement of campaign expenses as required by Section 10482, R.S. Missouri, 1929, within thirty days after the primary, and cannot wait until after the general election and file a combined statement of his expenses for both the primary and general elections.

Respectfully submitted,

HARRY H. KAY
Assistant Attorney General

APPROVED By:

J.E. TAYLOR
(Acting) Attorney General

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