



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 16, 1975

ATTORNEY GENERAL OPINION NO. 75-460

Mr. Robert I. Nicholson
Miami County Attorney
Miami County Courthouse
Paola, Kansas 66071

Re: Elections--Ballots--Printing

Synopsis: A county which has in force on July 1, 1975, a two-year contract, commencing January 1, 1975, for the printing of ballots must continue to honor its obligations under said contract, and may not abandon said contract because it was not in accordance with the procedures prescribed by ch. 207, L. 1975, which became effective after execution of the contract in question.

* * *

Dear Mr. Nicholson:

K.S.A. 25-604(a), as amended by ch. 207, § 1, L. 1975, states thus:

"The county election officers shall have charge of the printing of the ballots for all elections, primary, special and general. The contract for the printing of any such ballots shall be let to some newspaper printed in Kansas and published with the original entry of such newspaper in the mail in the county or to any printer within the county, or if there be no such newspaper or printer, then to some newspaper printed in Kansas of general circulation in the county. Whenever ballots are to

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be printed, the county election officer shall notify all qualified newspapers and printers of the date when negotiations for the letting of the contract to print such ballots will begin. The county election officer shall conduct such negotiations and shall let the contract, with the approval of the board of county commissioners."

The amended statute became effective July 1, 1975.

You advise that prior thereto and following a custom of many years' standing, Miami County had entered into a contract with printer for the printing of all election ballots. This contract was effective commencing January 1, 1975, and terminated December 31, 1976. The question you raise is whether ballots for city elections to be conducted in the spring of 1976 must be printed under a contract let pursuant to the 1975 amendment, or whether the county may or indeed must honor the existing contract.

Article 1, § 10 of the United States Constitution provides, *inter alia*, that "No State shall . . . pass any . . . Law impairing the obligation of Contract" The 1975 amendment must be construed not to impair any right arising from a contract in force at the time of its enactment and effective date. In *State ex rel. Speer v. Barker*, 4 Kan. 379 (1868), the court held that a contract which had been entered into for state printing and which remained in force at the time a subsequent law was enacted could not be superseded by the subsequent law, stating as follows:

"So where a contract is made under the authority of law, the right of property acquired arises not from the law itself, but from the contract to which it pertains as an incident, and the law-making power cannot divest the rights thus acquired, originating, not in the law itself, but in acts done under the law, and which attach as incidents, not to the law, but to contracts made under it." 4 Kan. at 387.

Thus, in the face of a subsisting contract, valid under the authority under which it was executed, the printer who was awarded that contract enjoys the right to all work to which he is entitled thereunder for the duration of the contract term.

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It is, accordingly, my opinion that the county may honor the outstanding contract for ballot printing through the expiration of the term of said contract.

Yours very truly,

A handwritten signature in cursive script that reads "Curt Schneider". The signature is written in dark ink and is positioned above the typed name.

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj