



STATE OF KANSAS

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February 19, 1982

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ATTORNEY GENERAL OPINION NO. 82- 45

The Honorable Jack H. Brier
Secretary of State
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: Elections -- Registration of Voters -- Expenses
for Late Hours of Registration

Synopsis: Expenses incurred by city clerks in connection with the provision of late hours for voter registration pursuant to K.S.A. 25-2311(d) are not election expenses to be borne by counties in accordance with K.S.A. 25-2201 et seq., but are registration expenses to be paid by the cities pursuant to K.S.A. 25-2315. Cited herein: K.S.A. 25-2201, 25-2301, 25-2311, 25-2315.

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Dear Secretary Brier:

You indicate there is an apparently widespread practice for cities to charge the county election officers for expenses incurred by the cities in connection with the provision of late hours for voter registration. You note that the rationale for this practice is that, since election expenses are usually paid by the county pursuant to K.S.A. 25-2201 et seq., and since late registration hours are necessitated because of an election, expenses incurred in connection with providing late hours for voter registration are, therefore, "election expenses," to be borne by the county. However, you state your disagreement with this analysis and have requested our opinion.

During specified times prior to the closing of the registration books, county election officers are authorized to provide additional hours at which times voters may register. These provisions are made pursuant to K.S.A. 25-2311(d).

We also note that the expenses of voter registration are addressed by K.S.A. 25-2315, which provides:

"The expenses of registration incurred under this act shall be paid by the county in all cases except expenses incurred by city clerks, in which case such expenses shall be paid by such city. County and city governing bodies upon which this section imposes financial obligation shall make adequate provision to carry out the intent of this act by authorizing sufficient expenditure for both regular and temporary employees, record keeping methods approved by the secretary of state and such other expenditures as may be appropriate."
(Emphasis added.)

The "act" referred to by the emphasized language in the above-quoted provisions is Chapter 55 of the 1968 Session Laws of Kansas. K.S.A. 25-2311 and 25-2315 were sections 11 and 15, respectively, of that enactment. Accordingly, it is apparent that expenses incurred by city clerks in providing late hours for registration pursuant to K.S.A. 25-2311(d) are expenses required by K.S.A. 25-2315 to be paid by the cities.

We believe this conclusion is compelled not only by the language and context of the statutes cited above, but by other apparent evidence of legislative intent. As noted previously, the provisions of K.S.A. 25-2301 et seq. were originally enacted as a single enactment (L. 1968, ch. 55), and the sections of this enactment are totally separate and distinct from the statutes providing for apportionment of election expenses (K.S.A. 25-2201 et seq.), which statutes were originally enacted as sections of Chapter 53 of the 1968 Session Laws of Kansas. Thus, the legislature has clearly distinguished between election expenses and expenses incurred for the registration of voters, including expenses attributable to the provision of late hours for registration pursuant to K.S.A. 25-2311(d).

We note that a similar question was addressed in Attorney General Opinion No. 75-68. There Attorney General Schneider determined that, even though city clerks may act as deputies of the county clerks in providing for voter registration, a clear reading of the pertinent statutes compelled the conclusion that "it is the city which must bear the costs of registration materials, employees, and other expenses incurred for and on behalf of the discharge of the duties of a deputy county election officer by a city clerk appointed under K.S.A. 25-2303." Id. at p. 3. We agree with that conclusion, and even though the opinion did not specifically answer the question you have posed, its discussion of K.S.A. 25-2311(d) implicitly recognized that expenses incurred in providing late hours for voting registration are registration expenses.

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Accordingly, based on our reading of the pertinent statutory provisions which clearly separate and distinguish between election expenses and expenses incurred for the registration of voters, it is our opinion that expenses incurred by city clerks in providing late hours for voter registration pursuant to K.S.A. 25-2311(d) are not election expenses, but are registration expenses to be paid by the cities pursuant to the requirements of K.S.A. 25-2315.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



W. Robert Alderson
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