

2686.

ELECTIONS—EXPENSES IN COUNTY HAVING REGISTRATION CITY—  
PAYABLE ON ORDER OF DEPUTY STATE SUPERVISOR OF ELEC-  
TIONS.

SYLLABUS:

1. Sections 4944 and 4945, General Code, constitute exceptions to the general requirement of Section 2460, requiring allowance of claims against a county by the county commissioners.

2. Expenses incurred in renting rooms in which to hold elections and furnish light and fuel for same, the purchase of supplies, such as poll books, talley sheets and other supplies for election purposes and the compensation and mileage of judges and clerks of elections, in a county in which a registration city is located, may be paid upon certification thereof by the board of deputy state supervisors of elections to the county auditor without allowance by the county commissioners.

COLUMBUS, OHIO, October 8, 1928.

HON. L. E. HARVEY, *Prosecuting Attorney, Troy, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, as follows:

“I would like to have your opinion in regard to the allowance of certain election expenses and submit my request in the form of the following questions:

1. Does the statute require the allowance by the county commissioners of bills incurred in renting rooms in which to hold elections and furnish light and fuel for same?
2. Does the statute require the allowance by county commissioners of bills for the purchase of supplies, such as poll books, talley sheets, and other supplies for election purposes?
3. Does the statute require the allowance by county commissioners of the compensation and mileage of judges and clerks of elections?

The provisions of the law relating to the payment of election expenses are somewhat confusing and conflicting, and in some counties all of the above expenses are paid upon the allowance of the deputy state supervisors of elections, without the allowance of the county commissioners. There also seems to be a different ruling on the payment of these expenses in the counties containing registration cities. Miami County contains one registration city, and this may have some bearing on your decision as to whether certain of the above bills can be paid without allowances by the commissioners.”

Section 2460 of the General Code provides as follows:

“No claims against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the county auditor, except in those cases in which the amount due is fixed by law, or is authorized to be fixed by some other person or tribunal, in which case it shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the claim. No public money shall be disbursed by the county commissioners, or any of them, but shall be disbursed by the county treasurer, upon the warrant of the county auditor, specifying the name of the party entitled thereto, on what account, and upon whose allowance, if not fixed by law.”

Section 4821, General Code, provides as follows:

"All proper and necessary expenses of the board of deputy state supervisors shall be paid from the county treasury as other county expenses, and the county commissioners shall make the necessary levy to provide therefor. In counties containing annual general registration cities, such expenses shall include expenses duly authorized and incurred in the investigation and prosecution of offenses against laws relating to the registration of electors, the right of suffrage and the conduct of elections."

The later statutes, however, make a clear distinction between election expenses in counties containing registration cities and those where no registration cities exist.

Section 5052 of the Code provides as follows:

"All expenses of printing and distributing ballots, cards of explanation to officers of the election and voters, blanks, and other proper and necessary expenses of any general or special election, including compensation of precinct election officers, shall be paid from the county treasury, as other county expenses."

This section is applicable unless other provisions of law are inconsistent therewith. In my opinion, however, this section must be read in connection with Sections 4945 and 4946 of the Code, which sections are as follows:

*Section 4945.* "For November elections held in even numbered years, the county in which such city is located shall pay the general expenses of such election other than the expenses of registration. Such allowance and order of the board for such expenses and compensation to such judges and clerks of the elections shall be certified by the chief deputy and clerk to the auditor of such county, who shall issue his warrants upon the county treasury for the amounts so certified."

*Section 4946.* "The additional compensation of members of a board of deputy state supervisors and of its clerks in such city hereinbefore specified, the lawful compensation of all registrars of electors in such city, the necessary cost of the registers, books, blanks, forms, stationery and supplies provided by the board for the purposes herein authorized, including poll books for special elections, and the cost of the rent, furnishing and supplies for rooms hired by the board for its offices and as places for registration of electors and the holding of elections in such city shall be paid by such city from its general fund. Such expense shall be paid by the treasurer of such city upon vouchers of the board, certified by its chief deputy and clerk and the warrant of the city auditor. Each such voucher shall specify the actual services rendered, the items of supplies furnished and the price or rates charged in detail."

These two latter sections are found in the provisions of law with respect to counties having registration cities and clearly indicate a different rule is applicable to expenses in counties where no registration cities exist. Consequently these sections control and not Section 5052 of the Code, *supra*, which is only applicable to counties where no registration city exists.

Since Miami County contains a registration city, the two foregoing sections designate the board of deputy state supervisors of elections as a tribunal to fix the

amounts due for "general expenses and compensation," as an exception to the general rule prescribed in Section 2460, General Code. Specific mention is made therein of compensation of judges and clerks, which also includes the special compensation for delivering ballots in Section 5043 and the mileage incident thereto. The expenses mentioned in paragraphs 1 and 2 of your letter are included in the clause "general expenses of such election" in said Section 4945.

Assuming that your questions apply to November elections in even-numbered years and that the county is one containing a registration city, my answers to your questions are, therefore, as follows:

1. The provisions of law applicable do not require the allowance by the county commissioners of bills incurred in renting rooms in which to hold elections and furnish light and fuel for same.

2. The provisions of law applicable do not require the allowance by county commissioners of bills for the purchase of supplies, such as poll books, tally sheets and other supplies for election purposes.

3. The provisions of law applicable do not require the allowance by county commissioners of the compensation and mileage of judges and clerks of elections.

Respectfully,

EDWARD C. TURNER,  
*Attorney General*

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2687.

CANAL LANDS—RELINQUISHMENT OF BY CINCINNATI—FORM OF DEED APPROVED.

*SYLLABUS:*

*Form of deed of relinquishment of certain surplus parcels of canal lands in City of Cincinnati and City of St. Bernard approved.*

COLUMBUS, OHIO, October 8, 1928

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of October 3rd as follows:

"Herewith we are transmitting the form of the deed of relinquishment, as prepared by the City Solicitor of the City of Cincinnati and submitted to the Director of Highways and Superintendent of Public Works, as a proper form of conveyance.

By the terms of Section 7 of the Act of April 20, 1927, the Director of Highways and Superintendent of Public Works of the State of Ohio, is required to submit to the Attorney-General of Ohio, said deed of relinquishment for his corrections, if any, and approval, and in compliance with the provisions of this Section, I am submitting herewith the proposed form of relinquishment to the State of Ohio, as submitted by the authorities of the City of Cincinnati.

I am also enclosing herewith a form of relinquishment as prepared by Mr. Booton. He has already had this matter up for consideration with Mr. Laylin and Mr. Laylin and Mr. Booton met at the office of Mr. Edward D. Schorr, Attorney for the Rapid Transit Commission, and went over the form