

the case of a state office. On the other hand, to say that in all cases the petition must be signed by 100 electors, would be an unreasonable and unnecessary burden upon the candidates seeking a county office in the smaller counties, if the candidate, for instance, is of a political party that polled comparatively few votes at the last preceding gubernatorial election.

Specifically answering your inquiry, I am of the opinion that under Section 4785-70, General Code, as enacted by the 88th General Assembly, a person desiring to become a party candidate by the method of declaration, for an office to be voted for by the electors of a county or district larger than a county and less than the state, must file a declaration of candidacy as therein provided, accompanied by a petition signed by either 100 electors of his party, or five per cent of the electors who voted for the party candidate for governor at the next preceding regular state election.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1341.

ELECTION LAW—AUTHORITY OF SECRETARY OF STATE TO REMOVE  
EMPLOYEES OF BOARDS OF ELECTIONS—PRECINCT OFFICIALS NOT  
INCLUDED.

SYLLABUS:

*The authority vested in the Secretary of State under Section 4785-11, General Code, as enacted by the 88th General Assembly, to summarily remove any member of a board of elections, or the clerk, deputy clerk or any other employe of the board for cause as therein provided, does not include precinct officials as may be appointed and removed by boards of elections under the provisions of Section 4785-13, General Code.*

COLUMBUS, OHIO, December 28, 1929.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Please permit me, as Secretary of State, to ask for an Opinion from you as to Section 11 of Amended Substitute Bill No. 2, (known as the Election Laws of the State of Ohio,) and becoming effective January 1, 1930.

Section 11 provides that the Secretary of State ‘may summarily remove any member of a board of elections, or the clerk, deputy clerk, or any other employe of the board,’ under certain conditions.

Will you please give me your Opinion as to the meaning of the word *employe* as used in this section? Does the word *employe* apply only to those persons who may be engaged in work in the Board of Elections office, or does it apply to precinct officials and any and all other persons employed by or appointed by the County Board of Elections?

Assuring you that I will appreciate your Opinion on this matter so that the same may be used as a matter of record in the recodification of the laws, I am”

Section 4785-11, General Code, 113 O. L. 312, to which you refer, provides:

“The Secretary of State may summarily remove any member of a board of elections, or the clerk, deputy clerk, or any other employe of the board, for neglect of duty, malfeasance, misfeasance, or nonfeasance in office, for any wilful violation of the election laws; or for any other good and sufficient cause. Vacancies in the office of chairman or clerk, or deputy clerk shall be filled in the same manner as original selections are made, from persons belonging to the same political party as that to which the outgoing officer belonged; otherwise by the Secretary of State.”

Section 4785-13, General Code, in defining the duties of boards of elections in their respective jurisdictions, provides in paragraph d as follows:

“To appoint and remove its clerk, assistant clerks, and employes, and all registrars, judges, clerks and other officers of elections, and to fill all vacancies, and to designate the ward or district and precinct in which each shall serve.”

While this last cited section provides that registrars, judges, clerks and other officers of elections may be appointed and removed by the county boards of elections, and while such officers are, accordingly, employes of the boards in a generic sense, I do not believe that such officers are employes of the boards of elections within the meaning of the word as used in Section 4785-11, General Code. Paragraph d of Section 4785-13, General Code, *supra*, refers to registrars, judges and clerks as officers of elections, rather than as employes, and Section 4785-11, *supra*, specifically provides which officers of county boards of elections may be summarily removed by the Secretary of State.

I am, therefore, of the opinion that the authority vested in the Secretary of State under Section 4785-11, General Code, as enacted by the 88th General Assembly, to summarily remove any member of a board of elections, or the clerk, deputy clerk or any other employe of the board for cause as therein provided, does not include precinct officials as may be appointed and removed by boards of elections under the provisions of Section 4785-13, General Code.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*