

3048.

BOARD OF ELECTIONS—EXPENSE OF REGISTRATION—EXTRA
CLERK HIRE REQUIRED WITHIN SUBDIVISION OF COUNTY—
SUCH EXPENSE CHARGEABLE TO COUNTY.

SYLLABUS:

The compensation of extra clerks hired by a board of elections to assist in any registration is an item of expense chargeable to the county in which such registration is held.

COLUMBUS, OHIO, March 16, 1931.

HON. MARCUS C. DOWNING, *Prosecuting Attorney, Findlay, Ohio.*

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

"I am in receipt of a letter from the Hancock County Board of Elections which reads as follows:

'Please obtain an opinion from the Attorney General on the following question, based on Section 4785-20 of the Ohio General Code:

The County Auditor requests the Board of Elections to make a certificate to him of the items of cost of elections held in Findlay for the calendar year of 1930, under the above section.

During the year of 1930 the Board of Elections incurred expenses for extra clerk hire in the sum of Seven Hundred Eighty-six Dollars and Fifty-one Cents (\$786.51) during the installation of the new registration system in Findlay, Ohio, which said amount was paid by our County Treasurer on certificates from this Board. The clerks were not deputed but were employed to assist in the office of our Board in establishing and installing the registration system in Findlay.

Query, whether this item, in the sum of Seven Hundred and Eighty-six Dollars and Fifty-one Cents (\$786.51) for clerk hire is a proper item to be included in the certificate of this Board.'

I am quoting this letter for the reason that the clerk of the Board of Elections has stated the facts as well as I could. If you desire any further information or facts which are necessary to assist you in solving this problem I will gladly furnish them at your request."

I assume your question is whether or not the expense of extra clerk hire by the board of elections in connection with the installation of the new registration system in Findlay is payable by the county or by the city.

Section 4785-20, General Code, provides in part as follows:

"The expenses of the board in each county shall be paid from the county treasury in pursuance of appropriations by the county commissioners, in the same manner as other expenses are paid. If the county commissioners fail to appropriate an amount sufficient to provide for the necessary and proper expenses of the board, the board may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and such amount shall be appropriated. Payments shall be made upon vouchers of the board certified to by its chairman or acting chairman and the clerk or deputy clerk, upon warrants of the auditor.

Such expenses shall be apportioned among the county and the various

subdivisions as hereinafter provided, and the amount chargeable to each subdivision shall be withheld by the county auditor from the monies payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year the board shall submit to the taxing authority of each subdivision an estimate of the amount to be withheld therefrom during the next fiscal year.

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4. The compensation of registrars; the cost of renting, heating and lighting registration places; the cost of the necessary books, forms and supplies for the conduct of registration; and the cost of printing, and posting precinct registration lists; shall be charged to the subdivision in which such registration is held."

There is little doubt but that the board of elections has general authority to hire such employes as may be necessary to enable the board to perform its duties. Section 4785-13, General Code, provides that any board of elections shall "appoint and remove its clerk, assistant clerks, and employes, and all registrars, judges, clerks and other officers of elections, and to fill vacancies, and to designate the ward or district and precinct in which each shall serve." Section 4785-15, General Code, relates generally to the appointment of assistant clerks and employes. It is as follows:

"The board may, when necessary, appoint a deputy clerk of the political party opposite to that of the clerk, and one or more assistant clerks and other employes, prescribe their duties and fix their compensation as provided herein. The deputy clerk and assistant clerks shall take the same oath for the faithful performance of their duties as is required of the clerk of the board; and they shall have the same power to administer oaths as is given to the clerk by this act. The salaries of such deputy and assistant clerks and other employes shall not exceed the following schedule of compensation: Deputy clerk, in counties containing a population of over 450,000, \$400 per month, in counties containing less than 450,000 but not less than 300,000, \$300 per month, and in all other counties, \$250 per month; assistant clerks, \$250 per month; stenographers, \$150 per month; other employes, \$150 per month each. The board may also employ additional assistants or employes when necessary for part time only at the prevailing rate of pay for such services."

The appointment or designation of persons to serve in the precincts on general registration days as registrars of elections is provided in Section 4785-37, General Code, as follows:

"Thirty days before any registration in the precincts the board shall designate from among the judges of election in each precinct two of their number of different political parties who shall act as registrars of electors on the days fixed for the general registration. Such registrars shall be notified and one of their number in each precinct shall be designated by the board as the presiding registrar; and he shall call at the office of the board at the time specified by the board to receive the necessary supplies and instructions for holding such general registration. At the close of the first day's and the third day's registration he shall return all registration records and supplies to the board's office. They shall be compensated for their services as herein provided. The presiding registrar shall receive one dollar (\$1.00) additional for each time he calls

for, and a like amount each time he returns the books and supplies to the board's office."

The foregoing section not only provides who shall act as registrars of elections in the various precincts, but it expressly fixes their compensation. Paragraph d of Section 4785-20, *supra*, sets forth each item of expense in connection with any registration which shall be charged to the subdivision in which such registration is held. Insofar as the matter of the compensation of necessary employes in connection with the conduct of a registration is concerned, an application of the maxim *expressio unius est exclusio alterius* would compel the conclusion that the compensation of all such employes excepting registrars is an expense properly chargeable to the county. I am of the view that this principle is directly applicable and controlling as to your inquiry.

While it may be contended that the expenses of the extra clerk hire in question were occasioned by the registration entirely within the city and should therefore be chargeable to the city, it must be borne in mind that the legislature has obviously seen fit to impose upon the county the responsibility of meeting a portion of the expenses which must inevitably arise as a result of any registration. Section 4785-39, General Code, provides for registration at the office of the board of elections after the general registration in 1930. Section 4785-40, General Code, provides three methods, any one of which a board of elections may adopt in order to facilitate new registration and the change of registrations by electors already registered, after the general registration in 1930. Two of these do not contemplate registration by registrars but by other employes of the board of elections.

It is accordingly my opinion that the compensation of extra clerks hired by a board of elections to assist in any registration is an item of expense chargeable to the county in which such registration is held.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3049.

APPROVAL, LEASE TO OFFICE ROOMS IN COLUMBUS, OHIO, FOR
USE OF THE SENATE COMMITTEE ON TAXATION.

COLUMBUS, OHIO, March 17, 1931.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a certain lease, as hereinafter set forth, granting to you, as Superintendent of Public Works, for the use of the Senate Committee on Taxation, certain office rooms in Columbus, Ohio, as follows:

Lease from George L. Gugle for rooms 814-815-816 in the Guarantee Title and Trust Building, 16 East Broad Street, Columbus, Ohio. This lease is for a term of two months, beginning on the eleventh day of February, 1931, and ending on the eleventh day of April, 1931, by the terms of which the State will be required to pay ninety-seven dollars (\$97.00) per month.

There has been submitted an encumbrance estimate which contains the certificate of the Director of Finance, to the effect that funds are available for the payment of said rentals.

Finding said lease in proper legal form, I hereby approve it as to form, and return it herewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.