

OPINION 21

OFFICIAL OPINION NO. 21

September 13, 1973

Honorable Marie T. Lauck  
Indiana State Senator  
323 Peoples Bank Building  
Indianapolis, Indiana 46204

Dear Senator Lauck:

This is in response to your request for my official opinion on the following questions:

- “1. Does Burns’ Statutes, Section 29-5705 limit election expenses as set forth, and does it apply to all committees for the election of a candidate in setting forth their limitations?”
- “2. May a candidate set up one or more committees in order to expand these limitations?”
- “3. Do these limitations apply only once for one election, inclusive of primary and general elections, or would your official opinion be that the limitations could apply in May for the primary and again in November for the general election—in other words doubling the limitations?”

ANALYSIS

Indiana Code of 1971, Section 3-1-30-5, as found in Burns’ Ind. Stat. Ann. (1969 Repl.), Section 29-5705, places monetary limits on the amount of money which candidates for public office may themselves spend on election expenses. Specifically, Burns’ Section 29-5705, *supra*, reads as follows:

“\* \* \* The payments, expenditures, promises and liabilities which any candidate for nomination or election or both may make or incur directly or indirectly under this or the preceding section (§ 29-5704) shall not exceed in the whole twenty-five thousand dollars [\$25,000.00] if the candidate is one to be voted upon by all the voters of the state, ten thousand dollars [\$10,000.00] if the candidate is one to be voted upon

by all the voters of a congressional district, five thousand dollars [\$5,000.00] if the candidate is one to be voted upon by all the voters of a county or city, and two thousand dollars [\$2,000.00] if the candidate is one to be voted upon by the voters of a voting unit other than those above specified, all to be paid, handled and disbursed by a treasurer or political agent or candidate and not otherwise; and any payment, contribution, expenditure of, or promise or liability to pay, contribute, or expend any money or valuable thing in excess of said sum shall be unlawful: Provided, however, that a candidate also may pay personally, in addition to said sum or valuable thing or things amounting thereto, his own expenses for postage, letters, circular letters, telegrams, telephoning, stationery, printing, advertising, publishing, expressage, traveling and board, and the cost of any primary, convention or mass convention held pursuant to the law of this state which may be assessed against this candidate or the political committee under whose direction such primary, convention or mass convention is held. . . .”

From the above-quoted statute, it might be concluded that there are specific limitations as to the amount of money which may be expended personally by a candidate for public office in Indiana, and that there is no specified restriction on committees acting by and through a bonded political agent or treasurer in behalf of candidates for public office.

It is clear that the stated monetary limitations in the Indiana Statutes do not apply to expenditures made by any organized and bonded committees in behalf of any candidate. Such committees, however, like the candidates themselves, are required to comply with the filing requirements and other details of the Indiana Corrupt Practices Act (IC 1971, Section 3-1-30-1, Burns' Section 29-5701, *et seq.*)

As to the specific dollar limitations, when the law says, as it does, that it applies to money spent personally by the candidate for nomination or election or both, it would therefore seem to mean that the candidate could not expend personally in a primary election or a general election, or in a

## OPINION 21

combination of the two in the same election year, anything in excess of the specified limitations.

However, the Legislature inserted a proviso which has the effect of nullifying all of these dollar limitations in the state law both as to individual candidates and as to their committees, when it listed as exceptions to those dollar limitations virtually every category of campaign expense. To repeat the wording of that escape hatch provision, it reads as follows:

“\* \* \* Provided, however, that a candidate also may pay personally, in addition to said sum or valuable thing or things amounting thereto, his own expenses for postage, letters, circular letters, telegrams, telephoning, stationery, printing, advertising, publishing, expressage, traveling and board, and the cost of any primary, convention or mass convention held pursuant to the law of this state which may be assessed against this candidate or the political committee under whose direction such primary, convention or mass convention is held. . . .” [IC 1971, Section 3-1-30-5, Burns’ Ind. Stat. Ann. (1969 Repl.), Section 29-5705, *supra*.]

## CONCLUSION

It is, therefore, my Official Opinion that:

1. Indiana Code of 1971, Section 3-1-30-5, Burns’ Ind. Stat. Ann. (1969 Repl.), Section 29-5705, *supra*, would appear to limit the amount of money which a candidate expends in his election campaign.
2. The law entirely omits mention of any committee or committees set up in behalf of the candidate, so therefore the dollar limitations do not apply to such committees.
3. The first part of the law would appear to limit a candidate to the total specified dollar expenses for either a primary election, a general election, or both. And the other sections of the law require that both candidates and their committees must comply with the various reporting and filing requirements (see IC 1971, Section 3-1-30-1, Burns’ Section 29-5701, *et seq.*) And, obviously, those candidates for federal office

1973 O. A. G.

and those committees supporting candidates for federal office must also comply with the requirements of pertinent federal law requirements.

4. As stated in the foregoing analysis, the Indiana General Assembly, in IC 1971, Section 3-1-30-6, Burns' Section 29-5706, first set out specific dollar limitations on candidates' political expenses and then virtually nullified the entire law as to dollar limitations by including the proviso which exempts most every category of campaign expenses from the dollar limitations. The Legislature left a hole in the law large enough for any candidate or political committee to drive through with a fully loaded Brink's express truck.