

In summation hereof, it is my Official Opinion that:

1. The provisions of the Acts of 1921, Ch. 76, as found in Burns' (1951 Repl.), Section 55-1101 *et seq.* are still in effect and the powers and duties imposed on the Treasurer of the State should be exercised by such office.

2. The forms and records which are necessary to properly administer the act should be developed by your office, and be based on the information required by the act and your experience in similar matters.

OFFICIAL OPINION NO. 3

January 21, 1963

Mr. Edwin Steers, Sr.
Member, State Election Board
108 E. Washington Street
Indianapolis 4, Indiana

Dear Mr. Steers:

This is in response to your letter of December 17, 1962, wherein you request an Official Opinion. Your request pertains to the amount of compensation that could be authorized and paid certain precinct election officials in connection with the 1962 primary election, which was also an election for members of the Board of School Trustees of The Vigo County School Corporation, a county unit organization.

Attached to your letter and serving as a basis for your request, is a letter dated April 5, 1962, from Mr. Leonard F. Conrad, Clerk of the Vigo Circuit Court, and a letter dated December 14, 1962, from Mr. Leonard P. Kincade, County Attorney for Vigo County.

The factual circumstances, as shown from the above correspondence, appear to be as follows: Australian ballots were used throughout the county for the election of members of the board of school trustees. Voting machines were used throughout the county in connection with the primary election. In view of the use of Australian ballots, the county election board procured an order from the board of county commis-

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sioners ordering the payment of the maximum of fifteen dollars (\$15.00), as provided for in the Acts of 1945, Ch. 208, Sec. 39, as amended and found in Burns' (1962 Supp.), Section 29-3215. The county election board sought to collect the cost of printing the paper ballots and the three dollars (\$3.00) additional compensation for payment to certain precinct election officials, from the school corporation. The clerk submitted the bill to The Vigo County School Corporation, which has refused to make payment. The board of school trustees contends that the statute does not require the school corporation to pay such costs when there is a regular election of members of the board of school trustees conducted as a part of a regular election.

Your question can be paraphrased as follows:

Inasmuch as the election of members of the board of school trustees made necessary the use of Australian ballots, throughout the county, is it the legal responsibility of The Vigo County School Corporation to pay the costs of printing such ballots and the additional compensation of \$3.00 for each judge, clerk and assistant clerk, serving as precinct election officials?

In a consideration of your question, it is important to note that the election, in the instant case, is not a special school election, such as one on whether to adopt a school reorganization plan, *but is a regular election of members of a board of school trustees*. It should also be noted that it was conducted in conjunction with a regular primary election.

The provisions of the Indiana Election Code for the compensation of precinct election board members is found in the Acts of 1945, Ch. 208, Sec. 39, as amended and found in Burns' (1962 Supp.), Section 29-3215, which reads as follows:

"Each judge, each clerk and each assistant clerk of any primary or general election may be allowed and paid the sum of eight dollars [\$8.00]; and each sheriff of any such election may be allowed and paid the sum of five dollars [\$5.00]; and each inspector of such election may be allowed and paid the sum of eight dollars

[\$8.00] for the performance of all the duties of his office imposed on him by this act, which are performed by him on election day and eight dollars [\$8.00] for his services in calling at the county clerk's office for the precinct election supplies and the return of same to the clerk's office after the election whether the same is rendered before, on the day of or after such election: *Provided, however, That the county commissioners in any county may, by order of such board made and filed with the auditor of any such county not less than fifteen [15] days prior to the date of any primary or general election, provide for allowances and pay not to exceed the following amounts: Each judge, each clerk and each assistant clerk, the sum of twelve dollars [\$12.00] in counties using voting machines, and fifteen dollars [\$15.00] in counties using paper ballots; each sheriff, the sum of nine dollars [\$9.00]; and each inspector, the sum of twelve dollars [\$12.00] for the performance of all the duties of his office imposed on him by this act, which are performed by him on election day, and twelve dollars [\$12.00] for his services in calling at the office of the clerk of the circuit court for the precinct election supplies and the return of same to the clerk's office after the election: Provided, further, That in school, district and elections other than those above specified, except town elections, the county commissioners may fix the compensation of the precinct election officers at any determinate amount not to exceed the pay schedule first provided in this section. In town elections the compensation shall be fixed by the board of town trustees not in excess of the first above mentioned schedule.*" (Our emphasis)

The emphasized portion of Burns' 29-3215, *supra*, clearly authorizes the power of a board of county commissioners to order increased compensation, including the maximum sum of fifteen dollars [\$15.00] for each judge, clerk and assistant clerk serving as precinct election officials where both voting machines and paper ballots are used. *However*, this section does *not* authorize any charge against a school corporation where the election costs of conducting a primary election may

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be increased by the necessity of using paper ballots for candidates for a board of school trustees.

The Vigo County School Corporation was organized under the provisions of the Acts of 1959, Ch. 202, known as "The School Corporation Reorganization Act of 1959." Section 7 of said Act, as amended and found in Burns' (1962 Supp.), Section 28-6118, provides for a special election to afford voters an opportunity to approve or reject a proposal for the formation of a community school corporation. This section provides, in part, as follows:

*"Such special election shall be under the direction of the county election board in the county * * * The cost of conducting the election shall be charged to each component school corporation embraced in the community school corporation * * *"* (Our emphasis)

This section provides a specific provision for the charge of election costs against school corporations in such a special election.

The record shows The Vigo County School Corporation was established pursuant to the provisions of said reorganization act. A county unit plan was adopted. The plan provides for the election of the board of school trustees to be elected in the regular May primary elections. On page 95 of said plan, it is provided:

"The board of school trustees shall be elected on a non-partisan ticket, for a term of four years by the voters of Vigo County qualified to vote in the regular May Primary Elections."

This is in accord with the authority granted in Section 5 of The School Reorganization Act of 1959, as amended and found in Burns' (1962 Supp.), Section 28-6111.

The School Reorganization Act of 1959, in Section 9, as amended and found in Burns' 28-6120, provides for the powers and duties of community school corporation, election of trust-

ees and duties of trustees. This section reads, in part, as follows:

“(3) Whenever the plan approved by the county committee and the state commission provides for the election of members of the board of school trustees of the community school corporation, at the time provided by law for the filing of notice of candidacies for the primary election next following the creation of the community school corporation as provided herein, nominations for members of the board of school trustees of the community school corporation shall be made by a petition signed by the candidates and ten [10] registered voters residing within the boundaries of the community school corporation, which shall be filed with the clerk of the circuit court in the county, or in case the community school corporation is a united school corporation then with the clerk of the circuit court in each county having territory within the boundaries of the united school corporation, *and such nominations shall be listed on one [1] separate ballot as other names are listed but without party designation.*

“Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in primary elections are conducted, and the candidates elected at large shall be the persons having the greatest number of votes. In the event of a tie vote for any of said candidates, the judge of the circuit court, or in case of a united school corporation the judges of the circuit courts of the counties having territory within the boundaries of the united school corporation, shall select one [1] of said candidates who shall be declared and certified elected.” (Our emphasis)

It should be noted that neither this section nor any other section of said school reorganization of 1959 makes any provision for making a charge against a school corporation for any portion of election costs where an election of members of the board of trustees are elected in conjunction with a primary election. This section indicates the reason for the use of paper ballots in such elections, by the following:

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“* * * and such nomination shall be listed on one [1] separate ballot as other names are listed but without party designation.”

In 26 I. L. E. Statutes § 122, page 329, it is said:

“In construing a statute to ascertain the legislative intent, the act should be construed as a whole or in its entirety, each section being considered with reference to all other sections * * *”

In the case of *Walgreen Co. v. Gross Income Tax Division* (1947), 225 Ind. 418, 75 N. E. (2d) 784, 785, it is stated:

“Statutes are not to be considered as isolated fragments of law, but as parts of one great system.

* * *

“‘A statute is not to be construed as if it stood solitary and alone, complete and perfect in itself, and isolated from all other laws * * *’”

An examination of the statutes of this state, pertaining to school elections, indicates a diligent effort on the part of the Legislature, by appropriate language, to specifically and plainly indicate when it was intended a school corporation should be charged with the expenses of any election. The following statutes illustrate examples of specific provisions for charging of election costs:

(1) *The Acts of 1953, Ch. 88, Sec. 6*, as found in Burns' (1962 Supp.), Section 28-2460:

“* * * The expense of any such election shall be borne by the township, and shall be paid out of the special school fund, and any such fund is hereby appropriated.”

(2) *The Acts of 1957, Ch. 88, Sec. 17*, as added by Acts 1957, Ch. 119, Sec. 5, and found in Burns' (1962 Supp.), Section 28-2466c:

“* * * The expense of any such election shall be borne by the school corporation, and shall be paid out

of the special school fund, and any such fund is hereby appropriated.”

(3) *The Acts of 1955, Ch. 15, Sec. 6*, as found in Burns' (1962 Supp.), Section 28-2473:

“* * * The expense of any such election shall be borne by the school township, and shall be paid out of the special school fund, and any such fund is hereby appropriated.”

(4) *The Acts of 1947, Ch. 123, Sec. 4*, as amended and found in Burns' (1962 Supp.), Section 28-5904:

“* * * The expense of said election shall be borne by the said school corporation, or each of them holding an election, and shall be paid out of the special school fund.”

The School Reorganization Act of 1959, *supra*, does not, nor does any other provision of our laws, provide any authority to charge a school corporation for any portion of the expense involved in conducting a primary election, where members of a board of school trustees are also elected. In this connection it is well to note the language employed by the Supreme Court in the case of *Poyser v. Stangland* (1952), 230 Ind. 685, 689, 106 N. E. (2d) 390, wherein it is said:

“* * * We cannot under the guise of construction put something into a statute that the legislature apparently designedly omitted * * *”

Therefore, it is my opinion that The Vigo County School Corporation is not legally responsible for any portion of election expenses where members of a board of school trustees are elected by use of paper ballots, at the time of and in conjunction with a primary election.