

3778.

ELECTION EXPENSES— WHERE CITY ENTERS CLASS IN 1921 IN WHICH QUADRENNIAL REGISTRATION REQUIRED—CITY DOES NOT SHARE ELECTION EXPENSES PROVIDED UNDER SECTION 4946 G. C. UNTIL 1924.

The provisions of section 4946 G. C. as to the election expenses mentioned therein apply only to cities in which registration actually is required and the cities of the state which had a population of eleven thousand eight hundred and less than one hundred thousand, as announced in the proclamation of the secretary of state on January 21, 1921, do not begin paying their share of the election expenses provided under section 4946 G. C. until the presidential year of 1924.

COLUMBUS, OHIO, December 1, 1922.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your request for the opinion of this department upon the following:

“The City of Cambridge under the census of 1910 had a population of less than 11,800 and under the census of 1920 it had a population of more than 11,800 and less than 100,000. Under the provisions of section 4870 G. C. and section 4872 G. C., such city isst one in which general registration is required quadrennially at the presidential^l election.

Question: Under the provision of Section 4946 G. C., is the city of Cambridge required to pay the cost of rent of room or rooms for the holding of elections in said city at the primary election held in August, 1922, and all other elections prior to the presidential election in 1924?”

Section 4946 G. C. to which you make reference reads as follows:

“The additional compensation of members of the board of deputy state supervisors and of its clerk 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 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 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.”

An examination of the election laws of the State shows that Sections 4942 to Section 4946 inclusive, appear under the heading of “registration expenses” in Chapter Five of Title XIV of the General Code. The effect of this is that the various expenses mentioned in 4946 G. C. when paid by a city are a charge against a city only when registration actually obtains in that city.

The language of 4946 G. C., bearing upon the question, that is "the cost of rent for rooms for the holding of elections" originally appeared in the Revised Statutes first appearing in Section 2926-d Revised Statutes as passed May 4, 1885, and established a registration law for the cities of Cincinnati and Cleveland. Registration in other cities was later provided for by law until at the present time all cities having a population of 11,800 or more are registration cities, but the actual time when they began to function as registration cities is provided for in a specific manner by the statutes.

Pertinent to your inquiry is the syllabus of Opinion 2138 issued by this department to your bureau on June 6th, 1921, and appearing at Page 474, Vol. 1, Opinions of the Attorney General 1921. The first three branches of such syllabus read as follows:

1. "In cities which had a population of eleven thousand eight hundred and less than one hundred thousand, as announced by the secretary of state in his official proclamation of January 21, 1921, a general registration of all the electors in such cities shall only be had quadrennially at each and every presidential election, and the first general registration in such cities following the official announcement of the federal census of 1920, would take place in such cities in the presidential year 1924.

2. The members and clerks of the boards of deputy state supervisors of elections and the boards of deputy state supervisors and inspectors of elections, as the case may be, cannot draw the additional compensation provided in section 4942 G. C. until the presidential year of 1924 following the official announcement of the federal census by the secretary of state on January 21, 1921.

3. The cities of the state which have a population of eleven thousand eight hundred and less than one hundred thousand, as announced in the proclamation of the secretary of state of January 21, 1921, do not begin paying their share of the registration expenses provided under section 4946 G. C. until the presidential year of 1924."

It will be noted that the third branch of syllabus of the above opinion speaks directly upon Section 4946 G. C., the section to which you invite attention but the question treated in the opinion was the "share of registration expenses" and nothing was said upon the question of the city assuming the expense of rooms for primary elections. Aside from mentioning registration expenses Section 4946 G. C. includes a number of other election expenses, among which is 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.*"

The "city" referred to in Section 4946 G. C. is, as indicated heretofore, a city in which registration of electors actually is required and the city which is described by you is one which has a population "more than Eleven Thousand Eight Hundred and less than One Hundred Thousand" and thus is a quadrennial registration city. The quadrennial registration cities of the state established their status as to population in the census of 1920, a quadrennial year, but such population was not officially recognized until the issuance of the proclamation of the secretary of state on January 21, 1921, and following that date the next quadrennial year is the year of 1924.

In reply to your inquiry you are advised that the provisions of Section 4946 G. C. as to the election expenses mentioned therein apply only to cities in which registration actually is required and the cities of the state which had a population of Eleven Thousand Eight Hundred and less than One Hundred Thousand, as announced in the proclamation of the secretary of state on January 21, 1921, do not begin their share of the election expenses provided under Section 4946 G. C. until the presidential year of 1924.

Respectfully,
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Attorney-General.

3779.

DEPUTY COUNTY AUDITOR— MAY NOT BE LEGALLY APPOINTED
CLERK OF COUNTY BUDGET COMMISSION AND RECEIVE COM-
PENSATION FOR BOTH POSITIONS.

A deputy county auditor may not be legally appointed as clerk of the county budget commission and receive compensation therefor in addition to his salary as such deputy county auditor.

COLUMBUS, OHIO, December 1, 1922.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your request for the opinion of this department upon the following question:

“May a deputy county auditor be legally appointed as clerk of the county budget commission and receive compensation therefor in addition to his salary as such deputy auditor?”

In a personal conversation with a representative of your department this department is advised that this is a case where a deputy county auditor received compensation as clerk of the county budget commission while on the same day or days he received his salary as deputy county auditor.

The section of the General Code which is pertinent to your inquiry is Section 5649-3b, which reads in part as follows:

“There is hereby created in each county a board for the annual adjustment of the rates of taxation and fixing the amount of taxes to be levied therein, to be known as the budget commissioners, the county auditor, the county treasurer and the prosecuting attorney, shall constitute such board * * *. The auditor shall be the secretary of the board and shall keep a full and accurate record of all proceedings. *The auditor shall appoint such messengers and clerks as the board deems necessary*, who shall receive not to exceed three dollars per day for their services for the time actually employed, which shall be paid out of the county treasury. The budget commissioners shall be allowed their actual and necessary expenses. * * *.”