

Elections—Poll Books—County Clerk—Special General Election—Reimbursement—Charges.

Counties are entitled to be reimbursed for expenses incurred in holding highway debenture election. County clerks are not entitled to five cents per name for making out poll books in view of allowance of expenses in holding election.

Mr. R. N. Hawkins,
Assistant State Examiner,
Helena, Montana.

May 22, 1931.

My dear Mr. Hawkins:

You have requested an opinion whether county clerks and recorders are entitled to make a charge of five cents for each and every name entered in the poll books, applying to the recent general election held on May 5, 1931.

Section 571, R.C.M. 1921, provides that "county clerks shall receive for the use and benefit of the county, from every city or town, or from every school district of the first class, to which the poll-books referred to in the last section have been furnished, the sum of five cents for each and every name entered in such poll-books, and in addition he shall receive in like manner the amount of the actual expense incurred in printing and posting the lists of electors," etc. This section does not apply to the election recently held.

Sections 21 and 22 of chapter 95, laws of 1931, are as follows:

"Section 21. In all cases in which the counties of this state are required by this act to incur expense and pay claims in connection with the election ordered hereby, such counties shall be entitled to and shall be reimbursed from the state of Montana for such expenditures, upon their claims therefor.

"Section 22. There is hereby appropriated out of any money in the State Highway Fund the sum of Two Hundred Thousand Dollars (\$200,000.00), or so much thereof as may be necessary to pay the cost and expenses of such election, and all expenses in anywise lawfully incurred in connection with the same, or in carrying out the election provisions of this act, and the same shall be charged against and paid out of said fund, upon the claims presented by the several counties or other persons to the State Board of Examiners and by said State Board of Examiners approved, and the State Auditor shall draw, issue, and deliver his warrants therefor; provided, however, that the state and the counties therein are hereby authorized to accept the services of the election officials without payment therefor, if the same are tendered, and in all other lawful ways keep the expenses of such election at a minimum."

It will be observed that the only provision which this chapter makes for paying the county expense of the recent election is that the county shall be reimbursed for all expenditures made in connection with the cost of holding the election.

It is therefore my opinion that the clerk is not entitled to the five cents for each name on the poll-books but that the county is only entitled to be reimbursed for the expenses that it has incurred in holding the election.

Very truly yours,

L. A. FOOT,

Attorney General.