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SECRETARY OF STATE

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Honorable Sue Daniel
County Clerk, Potter County
Box 9638
Amarillo, Texas 79105

Election Law Opinion JWF-32
Re: Authority of a county to
charge political parties
for certain electronic
voting equipment and
services provided to
political parties for use
in party primary elec-
tions.

Dear Mrs. Daniel:

This is in response to your recent opinion request in which you asked several questions concerning the authority of Potter County to charge political parties for certain electronic voting equipment and services provided to political parties for use during their primaries.

This official election law opinion is rendered by me as chief election officer of the state in accordance with Tex. Elec. Code Ann. art. 1.03, subd. 1 (Vernon Supp. 1984).

Specifically, you asked the following:

1. [I]s it permissible for a county to be reimbursed by the Parties if the County must hire extra help in order to provide the service of preparing the voting devices for the Primary Election?
2. Does the reimbursement for cost of transporting the equipment to and from the polling places by the County include cost of personnel?

3. [D]oes the charge which the County absorbs for preparation of equipment include supplies used such as masks, hinges, wire locks, and seals, etc.?

In your first question, you asked whether a county may receive reimbursement from political parties if the county must employ additional personnel to provide the service of preparing and maintaining the voting devices for a primary election. Tex. Elec. Code Ann. art. 13.08(f) (Vernon Supp. 1984) provides in pertinent part:

In each county in which voting machines or an electronic voting system has been adopted, the county commissioners court shall permit the county-owned voting machines or voting equipment to be used for the primary elections, including the conduct of absentee voting for the elections, at a charge for use at each election of not exceeding \$16 per unit for voting machines adopted under Article 7.14, and not exceeding \$5 per unit for voting equipment adopted under Article 7.15; provided, however, that the county commissioners court shall not be required to provide voting machines or equipment for use in any election precinct in which fewer than 100 votes were cast in the preceding first or general primary or runoff primary election. The maximum amount fixed in this subsection includes the lease price for the use of the unit, and also the charge for its preparation and maintenance if the county provides these services. (Emphasis added.)

The statute clearly provides that if the county provides the services of preparing and maintaining voting equipment, the costs of providing these services is included in the maximum \$5 per unit lease fee for the use of the equipment. Therefore, if a county must hire additional personnel to provide the preparation and maintenance services, the costs incurred by the county incident to the employment of the additional personnel is included in the lease fee and may not be assessed to the political parties.

Your second question asked whether reimbursement under article 13.08(f) for the cost incurred by a county for transporting electronic voting equipment to the polling places in a primary election includes the cost of personnel. Tex. Elec. Code Ann. art. 13.08(f) further provides in relevant part:

The county is entitled to reimbursement for the cost of transporting the machines or equipment to and from the polling places if the county provides this service.

Therefore, if the county provides the service of transporting the electronic voting equipment to and from the polling places, the county is entitled to reimbursement for the costs incurred in providing the service, including personnel expenses.

Finally, you asked whether the county absorbs costs of supplies such as masks, hinges, wire locks, and seals used in the preparation of the equipment.

Political parties are responsible for the costs of furnishing election supplies and absentee ballots in the primaries. Tex. Elec. Code Ann. arts. 13.19 and 5.05, subd. 2b (Vernon Supp. 1984). A punch card ballot refers to the ballot cards and ballot labels. Tex. Elec. Code Ann. art. 7.15, subd. 2(d)-(f) (Vernon Supp. 1984). Therefore, since it is the responsibility of the executive committees of the political parties to furnish ballots, all parts of the ballot label booklets, such as the hinges and masks, must be supplied at the parties' expense. Items which are a part of the punch card device, however, such as wire locks and seals, may not be charged to the parties. The costs of these items must be borne by the county. Tex. Elec. Code Ann. art. 13.08(f) (Vernon Supp. 1984).

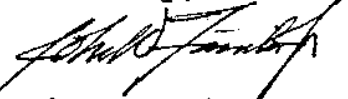
SUMMARY

The expenses incurred by a county in hiring additional personnel to provide the service of preparing and maintaining the voting equipment in a primary election may not be assessed to the political parties.

Reimbursement under article 13.08(f) for the costs incurred by a county for transporting the equipment to and from the polling places in a primary election includes the cost of personnel.

All parts of the ballot labels, such as hinges and masks must be supplied by the parties. However, the cost of items which are a part of the voting device, such as wire locks and seals, must be borne by the county.

Sincerely,



John W. Fainter, Jr.
Secretary of State

Honorable Sue Daniel
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