

It is noted that it was there held that the county was liable for providing workmen's compensation benefits to the widow of the deceased deputy sheriff rather than the office of the sheriff. It was determined that Ch. 440, F. S., placed liability for providing benefits on the county rather than the sheriff. The county was the political subdivision employing the deputy sheriff within the statutory definition of the term employment. This is substantially the same as §440.02(1)(b), except that the section now includes officers elected at the polls.

The attorney general in AGO 050-386, Aug. 7, 1950, Biennial Report of the Attorney General, 1949-1950, p. 441, gave the advice that the employees of the board of public instruction and the board of county commissioners of a county are employees within the provisions of the act. Likewise in Attorney General Opinion 050-71, Feb. 16, 1950, Biennial Report of the Attorney General, at p. 438, the same advice was given relative to a public school teacher.

073-425—November 21, 1973

### ELECTIONS

#### HONOREE AT TESTIMONIAL AFFAIR NEED NOT BE FORMALLY QUALIFIED CANDIDATE FOR OFFICE

To: Richard (Dick) Stone, Secretary of State, Tallahassee

Prepared by: Bjarne B. Andersen, Jr., Assistant Attorney General

#### QUESTIONS:

1. Is an individual or group of persons organized to hold or sponsor a testimonial affair pursuant to §99.193, F. S., a "political committee" required to register with the Division of Elections pursuant to §3, Ch. 73-128, Laws of Florida [§106.03, F. S.]?
2. Is the printing of tickets and invitations for a testimonial affair, as defined in §99.193, F. S., prohibited prior to the time the person in whose behalf the affair is being held files his qualification papers and pays his filing fees?

#### SUMMARY:

An individual or group of persons organized to hold or sponsor a testimonial affair pursuant to §99.193, F. S., in the honor of a person who holds, or is or was a candidate for nomination or election to, a political office is not a political committee as defined in §1(2), Ch. 73-128, Laws of Florida [§106.011(2), F. S.], and is not required to register as a political committee with the Division of Elections pursuant to §3, Ch. 73-128 [§106.03, F. S.].

Neither §99.193, F. S., nor Ch. 73-128, Laws of Florida, prohibits the printing of tickets and invitations for a testimonial affair prior to the person so honored at such an affair qualifying as a candidate, as the sponsor of such an affair does not come within the purview of Ch. 73-128, nor is a person's qualifying for elective office a condition precedent to his designation as a candidate under §1(1)(b) of Ch. 73-128 [§106.011(1)(b), F. S.].

#### AS TO QUESTION 1:

Section 1(2), Ch. 73-128, Laws of Florida [§106.011(2), F. S.] in pertinent part, defines a "political committee" as being the combination of two or more individuals the primary or incidental purpose of which is to support or oppose any candidate and which accepts contributions or makes expenditures in an aggregate amount in excess of five hundred dollars during a calendar year.

Section 99.193(1), F. S., defines a "testimonial affair" as an affair held in honor of a person who holds, or is or was a candidate for, a political office, designed to raise funds in his behalf for any purpose not charitable, religious, or educational. Section 99.193 does not designate or restrict the persons, groups or entities who may hold or sponsor the testimonial affairs therein provided for. Subsections (2) and (3) of said section, which relate to the filing of "notices of intent" and post-affair reports, only refer to "the person in charge."

The testimonial affair may be held in honor of a person who *was* a candidate, as well as for one who *is* a candidate, or it may be in honor of an officeholder, to raise funds on his *behalf* for any *purpose* not charitable, religious, or educational.

An individual or a group of persons organized to hold or sponsor a testimonial affair to honor an individual candidate, former candidate, or an officeholder—as opposed to supporting or opposing a candidate—and designed to raise funds on his behalf for *any purpose* not specifically prohibited by §99.193, F. S., would not seem to fall within the definition of a political committee set forth in §1(2) of Ch. 73-128, *supra*, and therefore such an individual or group sponsoring such a testimonial affair would not be required to register with the Division of Elections as a political committee under §3 of Ch. 73-128, *supra* [§106.03, F. S.].

Section 7 of Ch. 73-128, *supra* [§106.07 F. S.], relating to reports on campaign financing, provides in part:

(4) Each report required by this section *shall contain* the following information:

- •                    •                    •                    •
- (e) The total amount of proceeds from:
  1. Sales of tickets to each dinner, luncheon, rally, or *other fund raising event regulated by Section 99.193, Florida Statutes* . . . . (Emphasis supplied.)

In a prior letter opinion dated June 27, 1972, I expressed the view that contributions to and expenditures from a congressman's "Legislative Report Fund" account, *not related to any campaign activity, but rather to the operations of his public office*, were not subject to reporting under the provisions of former §99.161, F. S., since they were not made in connection with his candidacy or nomination to a congressional office.

If in fact the funds raised at a testimonial affair are distributed to a person who is a candidate for nomination or election to political office, in behalf of or in furtherance of his candidacy, such funds should be paid over by such candidate to his campaign treasurer as his contribution to his own campaign and deposited in his campaign depository. Upon such deposit of the candidate's contribution to his own campaign, such funds would become subject to the limitations of the law regulating campaign finances in the same manner and to the same extent as any other campaign contributions or expenditures, and subject to the reporting requirements of §7(4)(e) of Ch. 73-128, *supra* [§106.07(4)(e), F. S.].

Moreover, if the person in charge of a testimonial affair was to be considered a political committee within the purview of Ch. 73-128, Laws of Florida, the transfer of the "funds" or "proceeds" raised by such a political committee would be controlled by limitations contained in Ch. 73-128. Thus, any transfer from such a political committee to either a candidate or another political committee would be limited to the several amounts specified in §8, Ch. 73-128 [§106.08, F. S.]. Stated another way, if the sponsor of a testimonial affair is to be considered a political committee, the purpose of such a fund raising event would be nullified as the funds raised, and then transferred, could not exceed those of any other individual or political committee contributor.

Therefore, based on the separate statutory provisions applicable to the

accountability of funds raised by a testimonial affair as opposed to the accountability of funds raised by a political committee per se, it appears that a group which is organized to hold a testimonial affair pursuant to §99.193, F. S., does not come within the purview of Ch. 73-128, Laws of Florida.

Question 1 is answered in the negative.

#### AS TO QUESTION 2:

I have already concluded in response to your first question that an individual or group of persons organized to hold a testimonial affair pursuant to §99.193, F. S., is not within the provisions of Ch. 73-128, *supra*. Moreover, neither §99.193 nor Ch. 73-128 prohibits the person in charge or sponsor of such testimonial affair from printing tickets and invitations for a testimonial affair prior to the time the person in whose honor the affair is being held has qualified as a candidate or upon any other condition or occurrence.

Section 99.193, F. S., does not restrict testimonial affairs solely to candidates for office or to "qualified candidates" as opposed to "candidates" generally, and does not impose any requirement relative to candidates qualifying for office as a condition precedent to the holding of a testimonial affair.

Pursuant to §1(1)(b) of Ch. 73-128, *supra* [§106.011(1)(b), F. S.] any person who has received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or has given his consent for any person to receive contributions or make expenditures in behalf of his candidacy may be deemed to be a candidate for public office even if such person has not filed his qualification papers and paid his qualifying fees as provided by law.

I am therefore of the opinion that the filing of qualification papers and payment of qualifying fees by the person in whose behalf and honor a testimonial affair is to be held are not conditions precedent to the printing of tickets and invitations for a testimonial affair as defined by §99.193, F. S.

Question 2 is answered in the negative.

073-426—November 21, 1973

### ELECTIONS

#### REGISTRATION OF MUNICIPAL ELECTORS

To: Richard (Dick) Stone, Secretary of State, Tallahassee

Prepared by: Bjarne B. Andersen, Jr., Assistant Attorney General

#### QUESTIONS:

1. Are the registration books required to be closed thirty days prior to an election and remain closed until five days after the election, as provided for in §98.051(4), F. S., after January 1, 1974, the date on which all municipalities are required to adopt and use the county permanent registration system?

2. Do the qualifications of an elector, as provided for in §97.041, F. S., apply to voters in municipal elections?

3. What effect does Ch. 73-155 have on Ch. 59-1436, Laws of Florida, which provides for a class B voter (nonresident homeowner)?

#### SUMMARY:

Under the provisions of Ch. 73-155, Laws of Florida, on January 1, 1974, after which all municipalities will be required to use a single permanent registration system for the registration of electors to qualify them to vote in all elections: The opening and closing of registration