

Orig. file

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December 23, 2002

Mr. Ron Micheli, Director
Wyoming Department of Agriculture
2219 Carey Ave.
Cheyenne, WY 82002

Re: Conservation District Supervisor Election Expenses

Dear Mr. Micheli:

You have requested that this Office advise regarding the assessment of election costs to conservation districts. Your questions arise from the following events which occurred and have in the past occurred in Converse County.

Following the 2000 general election, the Converse County Clerk charged the Converse County Conservation District \$1,777.00 for election expenses. The Conservation District's participation in the election consisted of placing two district supervisor candidates upon the general election ballot. Upon inquiry by the Converse County Conservation District, the Conservation District learned that Converse County typically charges election fees based upon aggregate election costs of both the primary and general elections, which in turn are assessed to special districts regardless of whether a district participates in both elections. Thus, Converse County Conservation District has been charged election expenses derived from primary elections even though it has not participated in primary elections. In the most recent elections, the Conservation District did not place any issues on the primary ballot but had four candidates on the District's ballot which was held in conjunction with the County's general election.

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You have requested this Office advise concerning the following questions:

1. Must Special Districts pay for election costs?
2. What authority does a County have to assess election costs?

Without additional specific information regarding your concerns, the Office is not able to address other very general questions regarding existing rules defining the authority of county commissioners "to access (assess?) election costs" or your inquiry regarding options for attaining an equitable methodology for assessing election costs. It is apparent that special districts have considerable discretion in how to conduct or participate in elections pursuant to the Special District Elections Act. Please advise if you have specific legal questions, and this Office will work to assist you.

Statutory authority for conservation districts and their elections

The statutory law governing Wyoming conservation districts is set out in W.S. §§ 11-16-101 through 11-16-134. The State Board of Agriculture governs the State's conservation districts and is referred to as the "commission." W.S. § 11-16-102(a)(iii).

With regard to conservation district elections, W.S. § 11-16-119 provides, in part:

The commission shall provide for all elections, supervise the conduct thereof, and prescribe regulations governing the conduct of all elections, and shall make public the result thereof.

Specifically, W.S. § 11-16-120 provides that: "District supervisors shall be elected in subsequent elections under the Special Districts Elections Act of 1994." That Act, W.S. §§ 22-19-101 through 22-29-408, is a body of legislation which sets forth guidelines for special districts in conducting elections.

yes → A conservation district, bound by the Special Districts Elections Act, is responsible for the election expenses it incurs. W.S. § 22-29-113(c) provides, in part:

All special district elections, shall be at the expense of the district.

"The legislative intent, manifested in plain language of statutes, is controlling consideration." *Wright v. State ex rel. Wyoming Workers' Safety and Compensation Div.*,

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952 P.2d 209, 213 (Wyo. 1998). Absent clearly expressed legislative intent to the contrary, a court will deem the plain language of a statute conclusive and look no further into its meaning. *U.S. v. Cowan*, 116 F.3d 1360, 1361 (10th Cir. 1997). Without question, Conservation Districts are responsible for their election expenses.

Pursuant to your inquiry, it is necessary to advise regarding the scope of the term "election expenses." A fair interpretation of this statutory mandate is that special districts are responsible for only those election expenses which are attributed to the special district, as opposed to expenses which cannot be reasonably tied to the special district's election activities. When faced with a key statutory term which is undefined, courts will furnish an ordinary and obvious meaning. *In re Sell*, 7 P.3d 1, 4 (Wyo. 2000). A primary rule of statutory construction is that legislative enactments are intended to be logical, reasonable, and just. *Snake River Brewing Co., Inc. v. Town of Jackson*, 39 P.3d 397, 408, ¶ 39 (Wyo. 2002).

The Special Districts Election Act sets forth the elections in which special districts may participate. Pursuant to W.S. § 22-29-112(a), a district may not participate in a primary election and must conduct its election activities on certain dates or within a certain time frame, excluding primary elections. Accordingly, the Special Districts Election Act does not authorize a conservation district to participate in primary elections. It must logically follow that election expenses assessed to special districts, including the Converse County Conservation District under the present facts, cannot include election expenses which a district could not have legally incurred. Thus, W.S. § 22-29-113(a) cannot be construed as applying to election expenses which were not actually incurred by a special district. A conclusion to the contrary would be inconsistent with the clear language of the statute and would render an absurd result. We must assume that the legislature did not intend a futile thing and that the statutes should not be interpreted in a manner producing an absurd result. *Corkill v. Knowles*, 955 P.2d 438, 444 (Wyo. 1998).

Support for this conclusion is found in W.S. §§ 22-22-101 and 22-23-101, which provide that school boards and municipalities, when they participate in an election, are required to pay "an equitably proportioned share of a concurrent election, as determined by the county clerk." Likewise, it is reasonably implied by the language of W.S. § 22-29-113(a) that special districts are required to pay only their share of election expenses. It is counterintuitive to conclude that special districts should be treated differently than school boards or municipalities in this regard. All statutes must be construed in *pari materia*; and in ascertaining the meaning of given law, all statutes relating to the same subject or having the same general purpose must be considered and construed in harmony. *Peterson v.*

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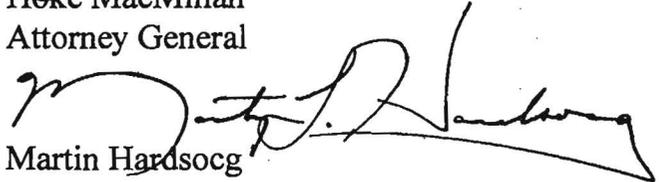
Wyoming Game and Fish Com'n, 989 P.2d 113, 118 (Wyo. 1999), *Painter v. Abels*, 998 P.2d 931, 938 (Wyo. 2000).

~~In sum~~, conservation districts are responsible for election expenses but are required to pay only those expenses which are reasonably attributable or allocable to the district's participation in an election.

Sincerely,



Hoke MacMillan
Attorney General



Martin Hardsocg
Supervising Attorney General



James Mitchell
Senior Assistant Attorney General

HM/MLH/JM/bkm