

officer is or is not on the active list is immaterial so long as he has remained a commissioned officer and his commission has not been canceled, has not expired, or been otherwise terminated.

For the foregoing reasons, and upon the facts that the record shows that the officer completed eight years' service on December 14, 1935, we answer your inquiry in the affirmative.

Respectfully submitted,

GRAY MASHBURN, *Attorney-General*.

By: W. HOWARD GRAY, *Deputy Attorney-General*

JAY H. WHITE, *Brigadier General, NNG, The Adjutant General, Carson City, Nevada.*

SYLLABUS

OPINION NO. 1936-201 Special Election—Registration.

Failure to give the full thirty (30) days' notice by publication prior to the close of registration will not invalidate the special election provided for in section 2225, Nevada Compiled Laws 1929, as amended.

INQUIRY

CARSON CITY, January 24, 1936

In holding a special election, pursuant to section 2225, Nevada Compiled Laws 1929, as amended, would a failure to give thirty days' published notice of the date of the closing of registration invalidate the election?

OPINION

Sections 2225 to 2242, Nevada Compiled Laws, inclusive, the same being an Act approved March 27, 1929, provide a statutory method for the establishment and maintenance of a public hospital in a county. Section 2225, Nevada Compiled Laws 1929, was amended in 1931 (1931 Statutes, page 231). In the original Act as passed, and prior to the 1931 amendment, the question of whether or not a tax should be levied for the purpose of establishing and maintaining a public hospital by the county was to be submitted to the qualified voters of the county at a general election after a petition signed by thirty percent of the taxpayers of the county had been presented to the Board of County Commissioners. The 1931 amendment to section 2225, Nevada Compiled Laws 1929, provides for the submission of the question of levying a tax for the establishment and maintenance of a public hospital to the qualified electors at a general election upon a petition signed by thirty percent of the taxpayers of the county, or if the petition is signed by at least fifty percent of the taxpayers, the Board of County Commissioners shall call a special election for the purpose of submitting the question to qualified electors of the county. The 1931 amendment consisted principally of providing for a special election upon the question of a tax levy for the purpose of establishing and maintaining a public hospital.

Section 2225, Nevada Compiled Laws 1929, as amended, reads in part as follows:

* * * such board * * * of county commissioners shall call a special election for the purpose of submitting such question to the qualified electors of the county, to be held within forty days after the petition requesting the special election shall have been filed with said board, by first giving thirty days' notice thereof in one or more newspapers published in the county, if any be published therein, or posting written or printed notices in each precinct of the county * * *.

From the foregoing it can be seen that the special election shall be called within forty days after the filing of the petition signed by at least fifty percent of the taxpayers of the county.

Section 2376, Nevada Compiled Laws 1929 (section 17 of the Act governing the registration of voters for election), as amended in the 1935 Statutes, at page 113, reads as follows:

SEC. 17. The county clerk shall close all registration for the full period of twenty days prior to any election. Within three days after the closing of registration he shall transmit to the secretary of state a statement showing the number of voters registered in said county, approximating the number of registry cards not yet received at his office. The county clerk of each county must cause to be published in newspapers published within his county and having a general circulation therein, a notice signed by him to the effect that such registration will be closed on the day provided by law, specifying such day in such notice, and stating that electors may register for the ensuing election by appearing before the county clerk at his office or by appearing before a deputy registrar in the manner provided by law. The publication of such notice must continue for a full period of thirty days next preceding the close of registration for any election. At least fifteen days before the time when the register is closed for any election, the county clerk shall cause to be posted, in not less than five conspicuous places in each voting precinct, outside of incorporated cities, a copy of such election notice, stating the time when the official register will close for such election. As amended, Stats. 1935, 113.

The provisions of the above section, requiring that registration shall be closed for the full period of twenty days prior to any election, and that notice of the close of registration shall be published for thirty days and posted for fifteen days prior to the close of registration, were part of section 17 as passed in 1917 (1917 Statutes, page 425), and were in effect at the time section 2225, Nevada Compiled Laws 1929, was amended in 1931, providing for the special election within forty days after the filing of the petition referred to in that section.

Section 2389, Nevada Compiled Laws 1929 (section 30 of the Registration Law), provides that the word "election," as used in the registration law, where not otherwise qualified, shall be taken to apply to general, special, primary nomination, and municipal elections.

While it is obviously the intent of the Legislature to make the statutes relating to the registration of voters apply to special elections, it is clear that the provisions of section 2225, Nevada Compiled Laws 1929, as amended, and section 2376, Nevada Compiled Laws 1929, cannot both be complied with. If section 2376, Nevada Compiled Laws 1929, were complied with, the election could not be held short of fifty days' time. On the other hand, section 2225, Nevada Compiled Laws 1929, as amended, required the special election to be held within forty days after the filing of the petition calling for a special election.

The Supreme Court has held that a special election for the purpose of removing a county seat must be held within the time provided for in the statute, notwithstanding the statute providing for the special election conflicts with a prior law pertaining to registration of voters. *State v. Washoe County*, 6 Nev. 104.

The rule announced in this case, we believe, is applicable to the question under consideration.

Legislative enactments relating to the same subject should be harmonized as far as possible. Public policy requires that all who are qualified to vote should be permitted to vote, and to register so that under the law they have the right to vote. With these rules of law in mind, this office is of the opinion that the voters who are qualified but not registered should be given such opportunity to register as the law will permit. It would follow that registration should be opened as soon as possible after the filing of the petition, and kept open until twenty days prior to the election, and that such notice thereof should be given as the circumstances and the law permit. This office is of the opinion that failure to give the full thirty days' notice by publication prior to the close of registration will not invalidate the special election provided for in section 2225, Nevada Compiled Laws 1929, as amended.

Your inquiry is, therefore, answered in the negative.

Respectfully submitted,