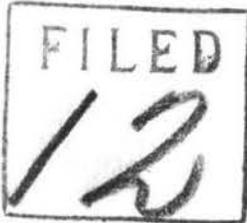


OFFICERS:  
COUNTY HIGHWAY  
COMMISSION:

*Indexed*

For a violation of Sec. 23.100 RSMo 1949, the members of a county highway commission could be removed from office, under the procedure specified in Secs. 106.220 RSMo 1949 et seq., or by the institution of proceedings in quo warranto.



July 18, 1956

Honorable Ealum Bruffett  
Representative  
Ozark County  
Gainesville, Missouri

Dear Mr. Bruffett:

Reference is made to your request for an official opinion of this office, which request reads in part as follows:

"The County Highway Commission of Ozark County has failed to make an annual report to the County Court as provided in Section 230.100. We request an opinion from your office as to the procedure in removing members of said commission for failure to make said report."

Section 230.100 RSMo 1949, to which you refer, provides that it shall be the duty of the county highway commission, annually, to make a complete, detailed report to the county court, and to the state highway commission, showing in detail the amount of money received and how applied. Said section further provides that if any such highway commission fails to make said report, the members thereof shall forfeit their office as such commission.

The office of county highway commissioner is a public office. State ex rel. Flowers v. Morehead, 256 Mo. 683.

Section 4, of Article VII of the Constitution of Missouri, provides:

"Removal of officers not subject to impeachment.-- Except as provided in this Constitution, all officers not subject to impeachment shall be subject to removal from office in the manner and for the causes provided by law."

While Section 230.100 makes the failure to file such report result in a forfeiture, said section or other sections relating to the county highway commission do not prescribe a method or procedure for removal of said officers. In the absence of special

Honorable Ealum Bruffett

provisions in this regard, we are of the opinion that the general provisions relating to the removal of county officers, as contained in Secs. 106.220 RSMo 1949 et seq. would be applicable. It is a fundamental rule in the construction of statutes that statutes relating to the same subject matter must be read and construed together. Further, as to the applicability of Secs. 106.220 RSMo 1949 et seq. see State ex rel. v. Morehead, noted supra.

Therefore, it is the opinion of this office that in the event of the violation of Sec. 230.100 RSMo 1949, the members of the county highway commission could be removed from office under the procedure outlined in Secs. 106.220 RSMo 1949, et seq. While we are, as stated, of the opinion that the members of a county highway commission could be proceeded against under the provisions of Secs. 106.220 et seq. for a violation of Sec. 230.100, we do not mean to state or imply that such method is exclusive.

In the case of State ex inf. McKittrick v. Wymore, 343 Mo. 98, 119 SW2d, 941, it was held that the provisions of said sections were not exclusive so as to deprive the courts of jurisdiction in quo warranto. See also State v. Mosley, 286 SW2d, 721.

#### CONCLUSION

Therefore, it is the opinion of this office that for a violation of Section 230.100 RSMo 1949, the members of a county highway commission could be removed from office under the procedure specified in Secs. 106.220 RSMo 1949, et seq. or by the institution of proceedings in quo warranto.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton  
Attorney General

DDG/ld