

AUDITOR: Section 50.055, RSMo 1959, and Section 29.230, RSMo
COUNTIES: Supp. 1965, are alternative methods by which the
COUNTY COURT: State Auditor can be requested to audit a second class
county. If a request is properly made under either
statute, the State Auditor must audit the county. In
either event the county must pay for the cost of the
audit.

OPINION NO. 293

June 15, 1967

Honorable Haskell Holman
State Auditor
Capitol Building
Jefferson City, Missouri



Dear Mr. Holman:

This is in answer to your request for an opinion of this office,
which request reads as follows:

"This office hereby requests an official ruling
by your department on the following questions:

1. Would the state auditor be authorized to audit the accounts of the various officials of a county having a county auditor when so requested by the county court of a second class county as provided in Section 50.055 RSMo., 1959, or,
2. Is the requirement for a petition signed by five per cent of the qualified voters, as set forth in Section 29.230 Cumulative Supplement 1965 the prevailing statute by which this office is empowered to make such an audit?
3. If such audit is to be made on the request of the county court, will the county be obligated for the cost thereof?

"I am enclosing a copy of a resolution passed by and certified to this office by the County Court of Clay County requesting this department to audit Clay County.

"Your earliest possible attention to this matter will be greatly appreciated."

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Article IV, Section 13, Constitution of Missouri, provides for the auditing by the State Auditor of the accounts of political subdivisions as provided by law and reads as follows:

"The state auditor shall have the same qualifications as the governor. He shall establish appropriate systems of accounting for all public officials of the state, post-audit the accounts of all state agencies and audit the treasury at least once annually. He shall make all other audits and investigations required by law, and shall make an annual report to the governor and general assembly. He shall establish appropriate systems of accounting for the political subdivisions of the state, supervise their budgeting systems, and audit their accounts as provided by law. No duty shall be imposed on him by law which is not related to the supervising and auditing of the receipt and expenditure of public funds."

Both Section 50.055, RSMo 1959, and Section 29.230, RSMo Supp. 1965, are laws providing for the auditing of second class counties.

Chapter 29, RSMo, provides for the State Auditor. Section 29.230, supra, originally enacted in 1939, now reads in part as follows:

"2. The state auditor shall audit any political subdivision of the state, including counties having a county auditor, if requested to do so by a petition signed by five per cent of the qualified voters of the political subdivision determined on the basis of the votes cast for the office of governor in the last election held prior to the filing of the petition. The political subdivision shall pay the actual cost of audit. No political subdivision shall be audited by petition more than once in any one calendar or fiscal year."

Section 50.055, supra, in the chapter on county finances and budget was originally enacted in 1945 and reads as follows:

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"The accounts of the county may be audited, if the county court shall determine such an audit desirable or necessary, every odd numbered year within six months after the termination of the preceding fiscal year, either by a certified public accountant to be employed by the county court or by the state auditor, as said court may determine. If such audit is to be made by the state auditor, the state auditor shall be requested by the county court to make such audit, as provided by law. The audit herein provided shall also review the records of the receipts and disbursements and the property inventory of every officer or office of the county which receives or disburses money on behalf of the county or which holds property belonging to the county. Upon the completion of the investigation, the certified public accountant or the state auditor, as the case may be, shall render a report to the county court at the close of said period, together with a statement showing under appropriate classifications, the receipts and disbursements of the county during said period. The first audit, as provided by this section, may be made following the fiscal year of 1946, and such audit may be made every two years thereafter. The county court shall provide for the expense of such audit, which in no event shall exceed the sum of five thousand dollars, if made by a certified public accountant employed by the county court."

Statutes are in "pari materia" when they are upon the same matter or subject, and the rule of construction in such instances proceeds upon the supposition that the several statutes were intended to be consistent and harmonious in their several parts and provisions. State ex rel. Cairo Bridge Commission v. Mitchell, 352 Mo. 1136, 181 S.W.2d 496, certiorari denied 323 U.S. 772, 89 L.Ed. 617, 65 S.Ct. 131. Statutes in pari materia should be read and construed together in order to keep all provisions of law on the same subject in harmony, so as to work out and accomplish the Legislature's central idea and intent. State ex rel. Lefholz v. McCracken, 231 Mo.App. 870, 95 S.W.2d 1239.

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It is our opinion in reading Sections 50.055 and 29.230, supra, that the Legislature intended there be two ways in which the State Auditor can be requested to audit a second class county. One is upon request by five per cent of the qualified voters of the county and the other is upon request by the county court.

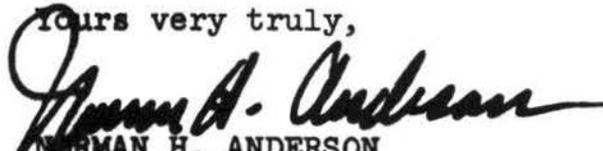
In either event the county must pay for the cost of the audit.

CONCLUSION

It is the opinion of this office that Section 50.055, RSMo 1959, and Section 29.230, RSMo Supp. 1965, are alternative methods by which the State Auditor can be requested to audit a second class county. If a request is properly made under either statute, the State Auditor must audit the county. In either event the county must pay for the cost of the audit.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walter W. Nowotny, Jr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General