

COUNTIES:  
TOWNSHIPS:

Upon a third class county becoming a second class county, pursuant to Chapter 48, RSMo 1969, the alternative form of government, i.e., township organization, if previously adopted, automatically ceases to exist.

OPINION NO. 17

February 15, 1972

Honorable Don F. Whitcraft  
Prosecuting Attorney  
Cass County  
P. O. Box 57  
Harrisonville, Missouri 64701



Dear Mr. Whitcraft:

This letter is in response to your request for an opinion on the following submitted question:

"An alternative form of government known as 'township organization' is authorized by Section 65.010 [RSMo 1969] for third and fourth class counties. Does 'township organization' automatically cease to exist when a third class county becomes a second class county?"

In the situation depicted in your opinion request, you mentioned that as of January 1, 1973, Cass County would change from a third to a second class county. It is assumed that such change is in accordance with the applicable provisions of Chapter 48, RSMo 1969. It was also indicated that Cass County, as a third class county, had adopted the alternative form of government, i.e., township organization, as provided by Chapter 65, RSMo 1969.

The Missouri Constitution, 1945, Article VI, Section 8, not only provides for the classification and organization, by general laws, of counties into not more than four classes but also establishes that ". . . all counties within the same class shall possess the same powers . . . be subject to the same restrictions. . . . [and any] law applicable to any county shall apply to all counties in the class to which such county belongs." Section 9 of Article VI provides that "[a]lternative forms of county government for the counties of any particular class and the method of adoption thereof may be provided by law."

The legislature by Section 65.010, RSMo 1969, has provided for an "alternative form of county government" for counties of the third and fourth class, i.e., the township organization form of government.

Honorable Don Whitcraft

However, the legislature has not enacted any provision providing for such form of government for counties of the first and second class. It would be the opinion of this office, therefore, that once a county classification changes from either a third or fourth to a second or first class county, that the alternative form of government provided by Section 65.010, RSMo, if adopted, ceases to exist.

There are further provisions within Chapter 65, RSMo, specifically Sections 65.020 and 65.610, which provide for the abolishment of the township form of county government by a majority vote of the inhabitants voting thereon. These sections, however, are not applicable and do not require an affirmative vote of abolishment when the situation exists as outlined in your opinion request.

#### CONCLUSION

It is the opinion of this office that upon a third class county becoming a second class county, pursuant to Chapter 48, RSMo 1969, the alternative form of government, i.e., township organization, if previously adopted, automatically ceases to exist.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Kermit W. Almstedt.

Yours very truly,



JOHN C. DANFORTH  
Attorney General