

COUNTIES:
COUNTY CHARTER:
COUNTY CLASSIFICATION:

When a second class county which has adopted a charter form of government becomes a first class county it continues as a charter county.

OPINION NO. 205

August 16, 1972

Honorable Howard M. Garrett
Representative, District 131
1540 Westvale Drive
Festus, Missouri 63028



Dear Representative Garrett:

This is in response to your request for an opinion from this office as follows:

"If a county of the second class adopts a charter, then passes the \$300,000,000 limit of assessed valuation and becomes a county of the first class, does its status as a charter county carry over automatically? Would the matter have to be resolved by an election?"

We have been unable to find any court decision in this state passing upon the question you have submitted.

Article VI, Section 8, Constitution of Missouri, provides that provisions shall be made by general law for the organization and classification of counties into classes which shall not exceed four.

The classification of counties is governed by Chapter 48, RSMo.

Section 48.020, RSMo, provides that all counties of this state are classified for the purpose of establishing organization and powers and in accordance with the provision of Article VI, Section 8, Constitution of Missouri, into four classes. It provides that all counties now having or which may hereafter have an assessed valuation of three hundred million dollars and over shall be in the first class.

Section 48.030, RSMo, provides that no county shall move from a lower class to a higher class or from a higher class to a lower class until the assessed valuation of the county is such as to place it in the other class for five consecutive years.

Honorable Howard M. Garrett

It is our opinion that when a county has an assessed valuation of three hundred million dollars or more for five consecutive years it automatically becomes a class one county. *Chaffin v. County of Christian*, 359 S.W.2d 730 (Mo. banc 1962).

Article VI, Section 18(a), Constitution of Missouri, provides any county having more than eighty-five thousand inhabitants may adopt a charter for its own government. This is true without regard to the county classification.

You inquire what effect, if any, a change in classification of a county has on the form of government the county has adopted.

It is our opinion that a change of classification of a county from a second class county to a first class county does not affect a form of government which the county has adopted. It is our view that any county that has a population in excess of eighty-five thousand inhabitants as provided in Article VI, Section 18(a), *supra*, may adopt a charter form of government without regard to the classification of the county, and when the classification of the county is changed, the form of government it has adopted continues automatically.

CONCLUSION

It is the opinion of this office that when a second class county which has adopted a charter form of government becomes a first class county it continues as a charter county.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Yours very truly,



JOHN C. DANFORTH
Attorney General