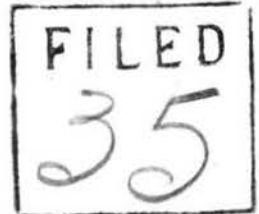


COUNTY CLERKS: Senate Bill #239 effective November 1, 1939.  
Gives clerks no more authority than they had.  
What source additional pay is to be paid from.  
May refuse to sign warrants when - .

August 25, 1939

Honorable Earl C. Gray  
County Clerk  
St. Charles County  
St. Charles, Missouri



Dear Sir:

This will acknowledge receipt of your letter of August 15, 1939, concerning Senate Bill #239 of the Sixtieth General Assembly. You present the following questions for our opinion:

1. The effective date of Senate Bill #239.
2. Will said bill give county clerks more authority than they had regarding the finances of the county?
3. From what source is this additional compensation to be paid?
4. When there is a deficit in a special road and bridge fund, may the clerk refuse to sign a warrant on said funds?

I.

Senate Bill #239 pertains to the County Budget Law. This bill was passed by the Sixtieth General Assembly and approved by the Governor on May 31, 1939. It carries a provision in Section 2 thereof which designates

August 25, 1939

it as a revision bill.

We are enclosing a copy of an opinion rendered by this department on the 18th day of August, 1939, to the Honorable Dwight H. Brown, holding that a bill of the Sixtieth General Assembly so designated becomes effective November 1, 1939.

## II.

The only changes made in the County Budget Act, as it appears in Laws of Mo. 1933, p. 340, by Senate Bill #239 that pertain to St. Charles County, a county of less than 50,000 inhabitants, are in Sections 1, 21 and 21a of said bill. In Section 1, the change makes the county clerk the budget officer of the county. In Section 21, the definition of a budget officer is omitted. In Section 21a, an entirely new section, compensation is provided for the county clerk's services as budget officer.

We do not see how these changes in the law confer any additional authority on the county clerk. An examination of Sections 2 to 8, inclusive, of the 1931 Budget Act discloses that all reference to authority of county officers refer to the county clerk or county court and not to the county budget officer.

## III.

Section 21a of Senate Bill #239 provides for compensation of county clerks for their services as budget officers in counties falling within certain population brackets. In counties now or hereafter having a population of 15,000 and less than 25,000, according to the last federal census, a compensation is fixed at Four Hundred (\$400.00) Dollars, payable in equal monthly installments. St. Charles County, according to the 1930 federal census, has a population of 24,352.

In answer to your third question, we enclose copies of

August 25, 1939

opinions rendered to Lee Barnham on November 2, 1937, and to G. Derk Green on August 24, 1937, holding that such additional compensation can be paid only if at the close of the fiscal year, after payment of all items which have been included in the budget, there remain funds in one of the classes, then this may be used to pay the county clerk for his services as budget officer, or this salary may be paid out of Class 5 if there is sufficient funds to permit the same, or a surplus in Classes 1, 2, 3 or 4, which may be transferred to Class 5 and used for this purpose.

## IV.

In answer to your fourth question, we enclose copies of opinions rendered to Randolph H. Weber on November 10, 1937, and January 11, 1938, holding that warrants may be issued on special road and bridge funds if said warrants do not exceed the anticipated revenue, and that said warrants, upon being presented for payment and there being no funds on hand to pay the same, draw interest from the date of protest at the rate of 6% per annum.

However, in your instance, <sup>if</sup> the warrants involved are such that they will cause the anticipated revenue to be exceeded in this fund, then the clerk can not be compelled to participate in issuing said warrant because such action would be contrary to Article X, Section 12 of the Constitution of Missouri.

Respectfully submitted,

LAWRENCE L. BRADLEY  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

LLB:RT  
Encs.