

FILED
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October 6, 1965

Honorable Philip G. Hess
Prosecuting Attorney of Jefferson County
Hillsboro, Missouri

Dear Mr. Hess:

This is in answer to your letter of recent date in which you state that the presiding judge of the county court of Jefferson County, a second class county, is in the hospital and may remain in the hospital for sometime. You state that the county clerk has under provisions of Section 49.070 designated one of the associate county judges as presiding judge of the court during the absence of the elected presiding judge.

You ask whether the county clerk has a right to refuse to serve as budget officer of the county if the county court designates such county clerk to be budget officer.

It is the view of this office that the county clerk is without authority to refuse to serve as budget officer of a second class county if he is designated by the county court to serve as such officer.

Section 50.530 RSMo. 1959, applicable to second class counties provides in part as follows:

"As used in sections 50.530 to 50.660.

"(2) 'Budget Officer' means the county auditor in class one counties, and the presiding judge of the county court in class two counties, unless the county court designates the county clerk as budget officer."

Honorable Philip G. Hess

Under the provisions of Section 50.530 (2) it is the statutory duty and obligation of a county clerk to serve as budget officer in a second class county if he is so designated by the county court. When the county court designated the county clerk as budget officer, the effect is the same as if the statute specifically designated the county clerk as budget officer.

There is no more authority for the county clerk to refuse to perform the duties enjoined upon him by such statute than there is for the county clerk to refuse to perform any other statutory obligation of his office. The county clerk has no authority to determine which statutory duties he shall perform but is required to perform all of the statutory obligations imposed upon the office of county clerk.

Very truly yours,

NORMAN H. ANDERSON
Attorney General

NHA