

COUNTY BUDGETS:  
SECTIONS 50.680 and 50.710  
REPEALED BY HOUSE BILL 205:

House Bill No. 205 enacted by the  
73rd General Assembly expressly  
repeals Sections 50.680 and 50.710,  
RSMo 1959, as amended and re-enacted  
by Senate Bill No. 3 of the 73rd  
General Assembly effective January 1,  
1967.

The state auditor is required to develop or approve adequate  
budget forms for third and fourth class counties as required by  
Sections 50.525 to 50.745.

November 1, 1966

OPINION NO. 470

Honorable Haskell Holman  
Auditor for State of Missouri  
Capitol Building  
Jefferson City, Missouri



Dear Mr. Holman:

In your letter of September 19, 1966, you requested an opinion  
from this office as follows:

"Sections 50.680 and 50.710, RSMo 1959 were  
repealed and re-enacted, as amended, by  
Senate Bill 3 of the Seventy Third General  
Assembly. This act was signed by the  
Governor March 31, 1965.

"Subsequent to the date Senate Bill 3 was  
introduced House Bill 205 was introduced  
and together with other designated sections,  
Sections 50.680 and 50.710 RSMo 1959 were  
again set forth and repealed by the passage  
of House Bill 205.

"The questions for clarification are as  
follows:

- A. Will third and fourth class  
counties on and after January 1,  
1967, be required to set forth  
by classes the proposed and esti-  
mated expenditures as required  
under the provisions of Sections  
50.680 and 50.710 of Senate Bill 3?
- B. Or does the subsequent enactment  
of House Bill 205 nullify the pro-  
visions of Senate Bill 3 on and  
after January 1, 1967?

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C. In the event that Sections 50.680 and 50.710 of Senate Bill 3 is effective would the form of budget as used for 1966 be applicable for 1967?"

In your letter you state that Senate Bill No. 3 was passed by the 73rd General Assembly and approved by the Governor on March 31, 1965, that subsequent to this date House Bill No. 205 was passed by the 73rd General Assembly. Senate Bill No. 3 expressly repealed Sections 50.680 and 50.710, RSMo 1959, and re-enacted two new sections bearing the same section number. House Bill No. 205 expressly repealed Sections 50.680 and 50.710, RSMo 1959, together with several other sections expressly mentioned therein effective January 1, 1967. The answer to your question depends upon the effect of House Bill No. 205.

The basic rule in construction of statutes is to discover the lawmaker's intention and if possible to affectuate that intention and thereby attain the object and purpose of the statute. *Hearn v. Carpenter*, Mo., 312 S.W.2d 823.

In 82 C.J.S. Statutes, paragraph 302, it is stated:

"Ordinarily a repeal of a statute which has been amended operates on, and carries with it, the amendment, at least where the amendment merely enlarged and extended the provisions, and did not affect the identity, of the original statute; but it is otherwise where the repealing statute expressly saves amendments, or where a so-called amendatory act is in reality affirmative and original in its character. Where a section of a statute is amended and the amendment is made in such terms that it stands in the place of the section, a subsequent act expressly repealing the original statute also repeals the amendment. Also, where a section of a statute is amended, and afterward such section, 'as amended,' is repealed, the original section, and not the amendment merely, is repealed. \* \* \*"

In *State ex rel. Atlantic Horse Insurance Co. v. Blake*, 241 Mo. 100, the Court was considering an act of the legislature passed in 1909. The legislature in 1901 passed an act expressly repealing Section 7957, RSMo 1899, and enacting a new section in lieu thereof to be known as Section 7957. In 1909 the legislature passed an act amending Section 7957, RSMo 1899, but did not refer

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to the act of 1901. The contention was made since the act passed in 1909 did not refer to the act of 1901 that the act of 1901 was still in effect. In discussing this matter the Courts stated, l.c. 105:

"In our opinion the contention of relator in this regard is unsound. The Act of 1901, by its terms, took the place of section 7957, Revised Statutes 1899, and became, after it took effect, to all intents and purposes, section 7957, Revised Statutes 1899, and subsequent reference to said section applied to the said 1901 act. Consequently, when the Act of 1909 amended said section, such amendment referred to the Act of 1901, which had been substituted for said section 7957.

"The rule of law is that when a section of a statute is amended or displaced by a later substituted act, and still later an act is passed which in terms purports to amend the original section, referring to it by number, such last amendment applies to any intermediate amendment of, or substitution for, the original section, such intermediate amendment or substitute to be regarded as if it had always been a part of, or in place of, the original section. [State v. Schenk, 238 Mo. 429; Kamerick v. Castleman, 21 Mo. App. 587; Blake v. Brackett, 47 Me. 28; Greer v. State, 22 Tex. 588; Rowan v. Ide, 107 Fed. 161; Endlich on Int. of Stat., sec. 294; McKibben v. Lester, 9 Ohio St. 627.]

"In the last-named case the court said: 'When one or more sections of a statute are amended by a new act, and the amendatory act contains the entire section or sections amended, and repeals the section or sections so amended, the section or sections as amended must be construed as though introduced into the place of the repealed section or sections in the original act.'"

Senate Bill No. 3 expressly repealed Sections 50.680 and 50.710, RSMo 1959, and re-enacted two new sections to be known as Sections 50.680 and 50.710. To all intentions and purposes these

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sections were substitutes for the same sections that had been repealed. House Bill No. 205 also expressly repealed Sections 50.680 and 50.710, RSMo 1959 effective January 1, 1967. Certainly the legislature did not intend by House Bill No. 205 to repeal statutes which had already been repealed by Senate Bill No. 3. Undoubtedly the legislature when it enacted House Bill 205 intended to and did expressly repeal these specific sections as well as their amendments or substitutes and we so rule.

Section 50.745, RSMo Cum. Supp. 1965, which becomes effective January 1, 1966, provides as follows:

"The state auditor shall develop or approve adequate forms which will be used by counties of the third or fourth class in compliance with sections 50.525 to 50.745. The state auditor is authorized to appoint committees of county judges and clerks to assist in developing such forms."

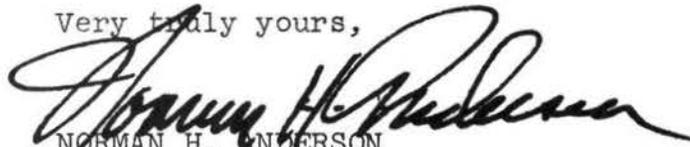
CONCLUSION

It is the opinion of this office that House Bill No. 205 enacted by the 73rd General Assembly expressly repeals Sections 50.680 and 50.710, RSMo 1959, as amended and re-enacted by Senate Bill No. 3 of the 73rd General Assembly effective January 1, 1967.

The state auditor is required by Section 50.745, RSMo Supp. 1965, to develop or approve adequate budget forms for third and fourth class counties in compliance with Sections 50.525 to 50.745.

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

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General