

COUNTY COUNSELOR:  
ATTORNEYS:

(1) An assistant county counselor of a first class county can also be employed as counsel by a sewer district formed under Sections 204.250 through 204.470, RSMo Supp. 1967; (2) An assistant county counselor of a first class county may also be employed as administrative assistant of the highway engineer of that county, so long as such person in no way renders legal services in his capacity as administrative assistant.

OPINION NO. 181

April 29, 1969



Honorable Jim Tom Reid  
County Counselor  
Jackson County  
Suite 202  
Court House  
Kansas City, Missouri 64106

Dear Mr. Reid:

This is in answer to your request for an official opinion of this office concerning the legality of employment by the county counselor of a first class county of a person employed by a sewer district or by the county highway department.

We will first consider the sewer district question. You have submitted the following facts concerning the employment by the county counselor of a person employed by a sewer district:

"As attorney for the Little Blue Valley Sewer District, Mr. Kelley has no duties for Jackson County whatsoever. He is attorney on a part-time basis for an entirely separate body politic. His employment in the County Counselor's office is strictly upon a part-time basis (The entire office, including myself, is so employed). His duties in this office involve rendering no services whatsoever to the sewer district. In brief, there is no overlapping of time nor duplication of services rendered by Mr. Kelley in his work for his two separate employers."

The Little Blue Valley Sewer District was formed under the provisions of Sections 204.250 through 204.470, RSMo Supp. 1967. Section 204.290, RSMo Supp. 1967, states that the sewer district shall be considered in law and equity a body corporate and politic. As a body

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corporate and politic the sewer district is not a department or agency of the county and thus is not represented by the county counselor or his assistants under Section 56.640, RSMo 1959.

Section 204.300, RSMo Supp. 1967, specifically provides that the board of trustees of the sewer district have the power to employ an attorney. Therefore, since there is no incompatibility or conflict it is our opinion that an assistant county counselor of a first class county can also be employed as counsel by a sewer district formed under Sections 204.250 through 204.470.

The second question concerns the county highway department. You have submitted the following facts concerning the employment by the county counselor of a person employed by the county highway department:

"Mr. Shaffer is employed as an attorney for Jackson County by this office and as such, does perform legal services involving the Jackson County Highway Engineer; however, his services for this office also include services to the other elected officials, to the resolution of problems concerned with our capital improvements program and to legal problems arising in connection with the daily administration of that part of the county government directly under the County Court. Upon investigation, I find that his employment by the Highway Department is in no way employment with a view toward procurement of legal services. He is employed as an Administrative Assistant and Lobbyist for the Highway Department on a part-time basis and as such, is registered as a lobbyist for that department with the Secretary of State for the state of Missouri. Briefly, once again, I find no overlapping of time nor duplication of the services rendered by Mr. Shaffer to this office as Assistant County Counselor and to the office of the County Highway Engineer as an Administrative Assistant."

The duties of the county counselor and his assistants of a first class county are given in Section 56.640, supra, as follows:

"The county counselor and his assistants under his direction shall represent the county and all departments, officers, institutions and agencies thereof, except as otherwise provided by law and shall upon request of any county department, officer, institution or agency for which legal counsel is otherwise provided by law,

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and upon the approval of the county court, represent such department, officer, institution or agency. He shall commence, prosecute or defend, as the case may require, and exercise exclusive authority in all civil suits or actions in which the county or any county officer, commission or agency is a party, in his or its official capacity, draw all contracts relating to the business of the county and shall represent the county generally in all matters of civil law, and shall upon request furnish written opinions to any county officer or department."

Sections 61.010 through 61.150, RSMo, provide for a county highway engineer for a first class county. Section 61.010, RSMo 1959, creates the office of county highway engineer and surveyor designated as "highway engineer." The highway engineer is an elected official of the county, Section 61.020, RSMo 1959, who has direct supervision over the construction, maintenance, repair and reconstruction of all public highways, roads, bridges and culverts in the county, Section 61.070, RSMo 1959, and shall personally or by deputy inspect same, Section 61.080, RSMo 1959.

It is clear that the county counselor and his assistants shall represent and give legal service to the county highway engineer.

Assistants are authorized for the highway engineer in Section 61.060, RSMo 1959, as follows:

"The county highway engineer is authorized to employ such technical and professional help and assistants at such salaries or under such terms as may be approved by the county court.\* \* \*"

Of course, the highway engineer could not employ an attorney for representation or legal services. However, we see no prohibition against the employment of an administrative assistant. Furthermore, it is our opinion that there is no prohibition against an assistant county counselor being employed by the highway engineer as administrative assistant, so long as such person in no way renders legal services in his capacity as administrative assistant.

#### CONCLUSION

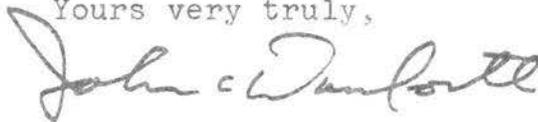
It is the opinion of this office that: (1) An assistant county counselor of a first class county can also be employed as counsel by a sewer district formed under Sections 204.250 through 204.470, RSMo Supp. 1967; (2) An assistant county counselor of a first class county may also be employed as administrative assistant

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of the highway engineer of that county, so long as such person in no way renders legal services in his capacity as administrative assistant.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Walter W. Nowotny, Jr.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH  
Attorney General