

Answer by letter-Wieler

August 29, 1969

OPINION LETTER NO. 295

Honorable Joe D. Holt
State Representative
District 102
Baker Building
Fulton, Missouri 65251

Dear Representative Holt:

This is in response to your request for an opinion from this office concerning the authority of the mayor of a third class city to appoint, with the consent and approval of a majority of the members elected to the city council, such officers as he may be authorized by ordinance to appoint pursuant to Section 77.330, RSMo 1959. Specifically, you ask if Section 77.330 requires the mayor to submit to each newly elected city council the person or persons he has appointed.

In your letter you state that the City of Fulton has, by ordinance, authorized the mayor to fill the Office of City Counselor by appointment. Section 77.330, RSMo 1959, provides:

"The mayor, with the consent and approval of a majority of the members elected to the city council, shall have power to appoint a street commissioner and such other officers as he may be authorized by ordinance to appoint."

We assume that the city counselor is appointed for a fixed term of office. Once the city counselor, is appointed and qualified, he holds office for the term thereof and until his successor is appointed and qualified, unless he is removed under the provisions of Section 77.340, RSMo, or otherwise under the terms of Article VII, Section 12, Missouri Constitution of 1945, which reads:

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"Except as provided in this Constitution, and subject to the right of resignation, all officers shall hold office for the term thereof, and until their successors are duly elected or appointed and qualified."

This constitutional provision was held to apply to municipal offices in the case of State ex rel. Voss v. Davis, 418 S.W.2d 163, 168 (Mo. 1967).

We are enclosing an official opinion of the Attorney General rendered to Frank L. Pulley under date of April 21, 1939 which answers your second question.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. to Pulley
4-21-39