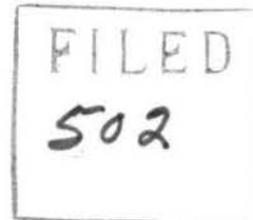


November 14, 1969

OPINION LETTER NO. 502

Honorable Frank Bild
State Representative
47th District
7 Mappen Court
St. Louis, Missouri 63128



Dear Mr. Bild:

This letter is in answer to your request for an opinion concerning whether or not the municipal ordinance providing for the employment of a special counsel must designate the counsel to be so employed and set out the terms of employment or whether such ordinance is sufficient if it merely authorizes the employment of special counsel, the particular individual to be designated at a later time by motion or resolution of the Board of Aldermen.

Your question is in reference to fourth class cities and the statute with respect to special counsel is Section 79.230, RSMo 1959, which provides in full as follows:

"The mayor, with the consent and approval of the majority of the members of the board of aldermen, shall have power to appoint a treasurer, city attorney, city assessor, street commissioner and night watchman, and such other officers as he may be authorized by ordinance to appoint, and if deemed for the best interests of the city, the mayor and board of aldermen may, by ordinance, employ special counsel to represent the city, either in a case of a vacancy in the office of city attorney or to assist the city attorney, and pay reasonable compensation therefor, and the person elected marshal may be appointed to and hold the office of street commissioner."
(Emphasis added)

Honorable Frank Bild

We note that in the case of Dearmont v. Mound City, 278 S.W. 802, the Kansas City Court of Appeals held that special counsel could not be employed by motion or resolution.

It is our view that the ordinance must designate the person to be employed, set out the compensation and other terms of employment, and that an ordinance merely authorizing the employment of special counsel would not be in compliance with Section 79.230.

Very truly yours,

JOHN C. DANFORTH
Attorney General