

COUNTIES:

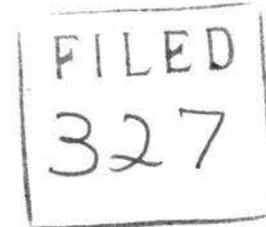
COUNTY CLASSIFICATION:

A third class county which had an assessed valuation of more than \$70,000,000 and less than \$300,000,000, as determined by the State Tax Commission for the years 1967, 1968, 1969, 1970 and 1971, will become a second class county on January 1, 1973.

OPINION NO. 327

December 29, 1972

Honorable Christopher S. Bond  
State Auditor  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Bond:

This is in response to your request for an opinion from this office in part as follows:

"On January 19, 1972, the Missouri State Tax Commission notified the State Auditor by letter (copy attached hereto) that the assessed valuation of Cass County for the year 1971 was \$83,404,676.

"Since the State Tax Commission had previously determined that the assessed valuation of Cass County exceeded \$70,000,000 for the years 1967 through 1970, inclusive, the year 1971 was the fifth successive year Cass County had an assessed valuation exceeding \$70,000,000.

"Pursuant to notification by the State Tax Commission of the 1971 assessed valuation of Cass County, the State Auditor, on February 17, 1972, notified officers of Cass County of a change in classification from third to second class status, effective January 1, 1973, as required by Chapter 48, RSMo 1969.

"In the aforementioned letter of January 19, 1972, the State Tax Commission stated the valuation of Cass County, and other counties, 'as determined by this Commission as of December 31, 1971 for the year 1971.'

Honorable Christopher S. Bond

"The question has arisen whether the 'date of the certification' by the State Tax Commission to the State Auditor was December 31, 1971, or January 19, 1972. This date, of course, would determine whether the change of classification of Cass County from third to second class would be effective January 1, 1973, or January 1, 1975.

"We ask for your interpretation of Section 48.030 to determine the effective date of the change of classification of Cass County from third to second class."

Section 48.030 (Senate Bill No. 271, 76th General Assembly, Second Regular Session), provides as follows:

"No county shall move from a lower class to a higher class or from a higher class to a lower class until the assessed valuation of the county is such as to place it in the other class for five successive years; except that, a county of the second class may become a county of the first class if the assessed valuation of the county is such to place it in the first class for three successive years. The change from one classification to another shall become effective at the beginning of the county fiscal year following the next general election after the certification by the state equalizing agency for the required number of successive years that the county possesses an assessed valuation placing it in another class. If a general election is held between the date of the certification and the end of the current fiscal year, the change of classification shall not become effective until the beginning of the county fiscal year following the next succeeding general election."

Section 48.040, RSMo, provides as follows:

"It shall be the duty of the state auditor, as the supervisor of county audits, to examine annually the assessed valuation figures of the various counties immediately upon the

Honorable Christopher S. Bond

certification of same by the state equalizing agency and to ascertain if any county shall have changed classifications as determined in this chapter. In case it shall be found that any county has met the requirements of reclassification as set forth in this chapter, it shall be the duty of the state auditor within thirty days after said certification to notify officially all county elected officers and the county officials charged with the supervision of elections of the change in status of the county."

You state that the State Tax Commission had previously determined the assessed valuation of Cass County exceeded seventy million dollars and was less than three hundred million dollars for the years 1967 through 1970 inclusive and that the year 1971 was the fifth successive year Cass County had an assessed valuation exceeding seventy million dollars and less than three hundred million dollars which under Section 48.020, RSMo, qualified it to become a second class county.

You further state that on January 19, 1972, the State Tax Commission notified the State Auditor that Cass County had a valuation ". . . as determined by this Commission as of December 31, 1971 for the year 1971." The determination of such assessed valuation of property in the county was contained in the annual report of the State Tax Commission provided for in Section 138.440, RSMo. You inquire as to the "date of certification" by the State Tax Commission as such phrase is used in Section 48.030, RSMo.

Section 50.010, RSMo, provides as follows:

"Unless otherwise provided in a charter adopted by a county under the provisions of sections 18 or 31, 32 and 33 of article VI, of the constitution of this state, the fiscal year of the several counties of the state shall commence on January first and terminate on the thirty-first day of December in each year, and the books, accounts and reports of all county officers shall be made to conform thereto."

Honorable Christopher S. Bond

It is our view that under Section 48.030, supra, the "certification" required is the certification of the total assessed valuation for the year in which the determination is made by the state equalizing agency. The "certification" as such word is used in Section 48.030, RSMo, in our opinion, is the State Tax Commission report made pursuant to Section 138.440. The change in classification of such a county is not dependent on the transmission of information as to assessed valuation by the State Tax Commission to the State Auditor or by the State Auditor to county officials. See Opinion No. 72, dated November 22, 1954 to Stephen R. Pratt, attached.

If the State Tax Commission had not on January 19, 1972, or any other date, given information to the State Auditor as to the assessed valuation of Cass County the change of classification would nevertheless take place by operation of law.

If the State Auditor had not on February 17, 1972, or any other date, notified the county officials of Cass County that 1971 was the fifth successive year that Cass County had an assessed valuation of more than \$70,000,000 and less than \$300,000,000, the change of classification would nevertheless take place by operation of law.

It follows that the certification in the premises was as of December 31, 1971 and therefore Cass County will become a second class county January 1, 1973.

#### CONCLUSION

It is the opinion of this office that a third class county which had an assessed valuation of more than \$70,000,000 and less than \$300,000,000, as determined by the State Tax Commission for the years 1967, 1968, 1969, 1970 and 1971, will become a second class county on January 1, 1973.

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

Very truly yours



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 72  
11/22/54, Pratt