

PROSECUTING ATTORNEY:

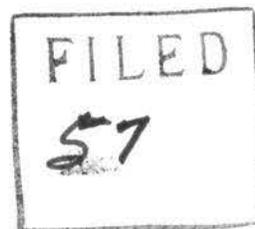
The provision of Sections 56.065  
and 56.270, Senate Bill No. 515,

Second Regular Session, 76th General Assembly, relating to prosecuting attorneys apply to a county of the second class in which the circuit court sits in more than one city in such county and do not apply to a second class county in which the circuit court sits in only one city unless said county has a population of more than 100,000.

OPINION NO. 57

February 1, 1973

Honorable A. J. Seier  
Prosecuting Attorney  
Cape Girardeau County  
721 North Sunset  
Cape Girardeau, Missouri 63701



Dear Mr. Seier:

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

"Do Sections 56.065 and 56.270 (which are effective 1/1/73) apply to second-class counties within a multi-county judicial Circuit Court thereby necessitating the Circuit Court sitting in 'more than one city'?"

"According to my information, Senate Bill 515 was introduced by Senator Bradshaw as a 'local bill' during the last Legislative Session. Supposedly this Bill would affect only Jasper County which is a second-class county wherein the Circuit Court sits in more than one city within that County. It would also affect any county with a population of more than 100,000, e.g. Jefferson County.

"In researching the number of second-class counties that are in multi-county circuits, I find that six out of the nine second-class counties would be affected by these statutes if it is determined that they fall within the language of the statutes 'or in a county of the second class in which the Circuit Court sits in more than one city. . .'

Honorable A. J. Seier

"Since this affects the practice of law for certain prosecutors and their budgets for the calendar year 1973, we earnestly request an immediate opinion."

In substance you inquire whether Sections 56.065 and 56.270 as enacted in Senate Bill No. 515, Second Regular Session, 76th General Assembly and which became effective January 1, 1973, apply to second class counties in which the circuit court sits in only one city in said county but does sit in cities in the other counties of the circuit.

Section 56.065, RSMo, provides:

"Notwithstanding the provisions of section 56.360, the prosecuting attorney of every first class county having a charter form of government and of counties of the second class having a population of more than one hundred thousand inhabitants or in a county of the second class in which the circuit court sits in more than one city shall devote his full time to his office, and, except in the performance of his official duties, shall not engage in the practice of law." (Emphasis added)

Section 56.270, RSMo, provides as follows:

"The prosecuting attorney in all counties of the second class having a population of more than one hundred thousand inhabitants or in a county of the second class in which the circuit court sits in more than one city shall receive for his services an annual salary of twenty thousand dollars. The prosecuting attorney in all other counties of the second class shall receive for his services an annual salary of fourteen thousand dollars." (Emphasis added)

It is our view that the underlined provision of the above statutes apply only to second class counties in which the circuit court sits in more than one city within the same county. They do not apply to second class counties in which the circuit court sits in only one city in the second class county even though the circuit court is held in cities in the other counties within the judicial circuit.

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These sections do apply to the prosecuting attorney in all counties of the second class having a population of more than 100,000 inhabitants.

CONCLUSION

It is the opinion of this office that the provisions of Sections 56.065 and 56.270, Senate Bill No. 515, Second Regular Session, 76th General Assembly, relating to prosecuting attorneys apply to a county of the second class in which the circuit court sits in more than one city in such county and do not apply to a second class county in which the circuit court sits in only one city unless said county has a population of more than 100,000.

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

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH  
Attorney General