

July 21, 1980

OPINION LETTER NO. 81
(Answered by Letter-Wieler)

The Honorable Gary C. Lentz
Prosecuting Attorney of
Newton County
Newton County Courthouse
Neosho, Missouri 64850



Dear Mr. Lentz:

This letter is written in response to your request for an opinion on the following question:

What is the manner provided by law under Chapter 230 for abolishing the alternative county highway commission and returning to the county highway commission?

Section 230.210, RSMo 1978, provides a means whereby the voters of a county can adopt the alternative county highway commission provided by §§ 230.200 to 230.260. Basically, this section provides that the county court shall submit the question of the adoption of the alternative county highway commission to a vote of the voters of the county at the next general election upon the filing of a petition calling for the same in the office of the clerk of the county court equalling five (5%) percent of the vote cast for governor in the last general election.

Section 230.205.1, RSMo 1978, provides that all counties of the state which have adopted the alternative county highway commission may abolish it by submitting the question to a vote of the voters of the county "in the manner provided by law." However, a review of the statutes fails to disclose any general means by which the voters of a county can be given an opportunity to vote

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on the abolishment of a county commission or agency. Therefore, it is necessary to construe the language of this section in order to accomplish the obvious intention of the legislature that the voters of the county be given an opportunity to abolish the alternative county highway commission if they so desire.

The Missouri Supreme Court has said that it is proper to consider the history of legislation, the surrounding circumstances, and the ends to be accomplished in construing ambiguous words in a statute. See for example, State ex rel. Zoological Park, Sub-district of City and County of St. Louis v. Jordan, 521 S.W.2d 369 (Mo. 1975); State v. Wright, 515 S.W.2d 421 (Mo. banc 1974); and Mashak v. Poelker, 367 S.W.2d 625 (Mo. banc 1963). In view of the legislature's stated intention that voters be allowed an opportunity to vote on the question of abolishing the alternative county highway commission, it is our opinion that the phrase "in the manner provided by law" means in the manner provided by law for establishing such a commission. In other words, upon the filing of a petition in the office of the clerk of the county court by voters equal to five (5%) percent of the vote cast for governor in the last general election requesting the abolition of the alternative county highway commission, the county court shall, by order of the record, submit the question to a vote of the voters of the county at the next general election. The question would be submitted in substantially the following form:

Shall the alternative county highway
commission be abolished in _____
County?

Very truly yours,



JOHN ASHCROFT
Attorney General