

COUNTY COLLECTOR: Consolidation of offices of county collector and county treasurer in certain counties - Senate Bill No. 76.

SB 76 A-12132 A 133

June 19, 1933. 7-4



Hon. E. W. Allison
Prosecuting Attorney
Phelps County
Rolla, Missouri

Dear Mr. Allison:

Your letter of June 7th addressed to this department received in which you request an opinion of this office, and which letter of request is as follows:

"As Prosecuting Attorney of Phelps County, I write to request the opinion of the Attorney-General on the following facts:

At the general election in November, 1932, a County Treasurer was elected by the people along with other elective officers but the person elected failed to qualify in that he failed to give the necessary bond under the law. Therefore the old County Treasurer is still holding the office.

A law recently passed by the last General Assembly of Missouri consolidates the offices of County Collector and County Treasurer after the year 1936, as I understand it. I write to ask the opinion of the Attorney-General as to whether or not the new law would apply to the case existing in this county wherein the elected County Treasurer failed to qualify and the present Treasurer is a holdover, and whether or not the law would be applicable at this time and if not applicable now, would said

law be applicable in so far as consolidating the offices of County Collector and County Treasurer after the general election in November, 1934.

Thanking you in advance for your opinion on this matter, I am, "

The new law which you refer to in your letter is evidently Senate Bill No. 76, which repeals Sections 12130, 12133, 12134, 12137 and 12138, Art. VIII, Chap. 85, R. S. 1929, and enacts eight new sections to be known as Sections 12130, 12132a, 12132b, 12133, 12134, 12137, 12138 and 12138a.

Your request for an opinion is divisible into two questions; first, whether the new law would apply to the case existing in your county wherein the elected county treasurer failed to qualify and the present county treasurer is a holdover, second, whether or not the law would be applicable at this time and if not applicable now would said law be applicable insofar as consolidating the offices of the county collector and county treasurer in your county after the general election in 1934.

We are assuming that your county (Phelps) has a population of less than 40,000 according to the last decennial United States census and is not under township organization, which information we have obtained from the Blue Book, 1931 and 1932. Therefore, your county would come under the provisions of Section 12132a of Senate Bill No. 76, which is as follows:

"On and after the expiration of the term of office of the county treasurer on the 31st day of December, 1936, in all counties of this state which now or hereafter have a population of less than 40,000 inhabitants according to the last decennial United States census and not under township organization, the county collector shall take over all the duties now performed by the county treasurer and such collector shall be county collector and ex officio county treasurer and shall perform any and all duties now devolving upon the county collector and county treasurer. Such collector shall act as ex officio treasurer and perform the duties attached thereto with no additional remuneration other than such moneys as are allowed

by law for his services as county collector, and he shall not be required to give any bond other than the bond given as county collector. All duties and obligations now imposed by law upon county treasurers in counties having a population of less than 40,000 inhabitants according to the last decennial United States census are hereby set over and made a part of the duties and obligations of the ex officio county treasurer as provided for in section 12132a."

By the reading of this section it will be seen that it does not operate until "on and after the expiration of the term of office of the county treasurer on the 31st day of December, 1936". On the last above date the county collector shall take over the duties now performed by the county treasurer and such collector shall be county collector and ex officio county treasurer and shall perform any and all duties now devolving upon the county collector and county treasurer, and therefore, it will not affect the situation in your county wherein the elected county treasurer failed to qualify and the present treasurer is a holdover for the very obvious reason that the law will not be operative until December 31st, 1936.

Our answer to the first question answers your second question and it will be seen that the above section would not be applicable insofar as consolidating the offices of county collector and county treasurer after the general election in November, 1934, for, as stated above, it does not become operative until December 31st, 1936.

Yours very truly,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.