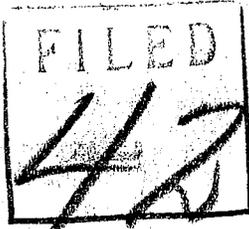


CLASSIFICATION OF
COUNTIES:
COUNTIES:

Fourth class county which had an assessed valuation in excess of ten million dollars for each of the years 1949, 1950, 1951, 1952 and 1953 becomes a third class county at the beginning of the fiscal year January 1, 1955.



December 16, 1954

Honorable John Hoamer
Prosecuting Attorney-Elect
Webster County
Marshfield, Missouri

Dear Sir:

This is in response to your request as prosecuting attorney-elect for an opinion of this office contained in your letter dated November 27, 1954, as elaborated by your letter of December 2, 1954. In view of the length of these letters, your request will be paraphrased for the purposes of this opinion.

You state that for each of the years 1949, 1950, 1951, 1952, and 1953, Webster County had an assessed valuation as certified by the State Tax Commission in excess of ten million dollars, and request an opinion of this office as to the date upon which the change in the classification of Webster County from fourth class to third class becomes effective.

The change of classification of counties is governed by the provisions of Section 48.030 RSMo 1949, which reads as follows:

"For the purpose of determining the initial class of the various counties, the assessed valuations of the respective counties as set forth on pages 333 to 400 of the 'Journal of the Board of Equalization of the State of Missouri for the Year Ending December 31, 1944' shall be used; provided, however, that hereafter no county shall be deemed as moving from a lower class to a higher class or from

Honorable John Hosmer

a higher class to a lower class until the assessed valuation of said county shall have been such as to place it in such other class for five successive years; provided further, that 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 fifth successive year that said county possesses an assessed valuation placing it in another class; provided further, that if a general election shall be held between the date of such certification and the end of the current fiscal year, such change of classification shall not become effective until the beginning of the county fiscal year following the next succeeding general election. (L. 1945 p. 1801 Sec. 3)"

The certification referred to in the above statute is that contained in the annual report of the State Tax Commission which is made pursuant to the requirements of Section 138.440, RSMo 1949 which must contain all of the proceedings and decisions of such tax commission while acting as a board of equalization. Such report contains the finally complete and accurate determination of the assessed valuation of the various counties of the state. This report is made as of December 31st of each year, and such date is the one on which the determination of your problem hinges. Thus, the certification referred to in the above-quoted statute for the year 1953, was made as of December 31, 1953, and since 1953 was the fifth year in which Webster County had an assessed valuation in excess of ten million dollars, that date determines the time at which the change in classification in Webster County becomes effective.

Applying the provisions of Section 48.030, RSMo 1949, to these facts, it appears that upon the certification in the annual report of the State Tax Commission, as of December 31, 1953, Webster County had had an assessed valuation in excess of ten million dollars for five successive years, and thus was eligible for classification as a third class county. The next general election after this certification as of December 31, 1953, occurred in November, 1954, and the change becomes effective at the beginning of the county fiscal year following such general election. The fiscal

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year of counties runs from January 1 to December 31, of each calendar year under the provisions of Section 150.010, RSMo 1949, and thus Webster County becomes a third class county as of January 1, 1955.

Section 48.040 RSMo 1949 provides for notification of such a change in classification by the state auditor; however, a failure to so notify does not prevent a change in classification since the act of the auditor in such matter is ministerial in nature. See opinion of this office dated November 22, 1954, to the Honorable Stephen R. Pratt, Prosecuting Attorney, Clay County, a copy of which is enclosed herewith, for a more extensive consideration of this problem.

As to the effect of this change of classification upon the salaries of the various county officers, see opinion of this office dated January 29, 1953, to Honorable Curt M. Vogel, Prosecuting Attorney of Perry County, a copy of which opinion is enclosed herewith for your information.

CONCLUSION

From the foregoing, it is the conclusion of this office that Webster County becomes a third class county effective at the beginning of its fiscal year, January 1, 1955.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Fred L. Howard.

Very truly yours,

John M. Dalton
Attorney General

Enc. 2 Opns. to -
Hon. Stephen R. Pratt, 11-22-54;
Hon. Curt M. Vogel, 1-29-53.

FLH:sm,1w