

COUNTY HIGHWAY ENGINEER: In counties of no less than 20,000 inhabitants or more than 50,000 inhabitants the county court cannot appoint the highway engineer by reason of Sec. 8660.

July 10, 1943



Honorable Kelso Journey  
Prosecuting Attorney  
Henry County  
Clinton, Missouri

Dear Mr. Journey:

Herewith is enclosed the prior opinion of this office, rendered to the Honorable G. Logan Marr, on April 4, 1943, which you requested.

In your letter of July 8, 1943, you ask:

"Under Section 8660, Mo. R. S. 1939, does the County Court of a county containing not less than twenty thousand inhabitants or more than fifty thousand inhabitants have the power to appoint a county highway engineer assuming a vacancy exists and that the county has adopted the county highway engineer law?"

Section 8660, Mo. R. S. 1939, provides as follows, in its pertinent parts:

"Sec. 8660. County court may appoint county surveyor as county engineer--- compensation---assistants.---

The county court of the several counties in this state may, in their discretion, appoint the county surveyor of their respective counties to the office of county highway engineer, provided he be thoroughly qualified and competent, as required by this article; and when so appointed, he shall receive the compensation fixed by the county court, as provided in section 8657, in lieu of all fees, except such fees as are allowed by law for his services as county surveyor\* \* \* Provided further, after

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January 1, 1941, that in all counties in the state which contain, or which may hereafter contain not less than twenty thousand inhabitants or more than fifty thousand inhabitants the county surveyor shall be ex officio county highway engineer, and his salary as county highway engineer shall not be less than twelve hundred dollars per annum, nor more than two thousand dollars per annum as shall be determined by the County Court. (R. S. 1929, Sec. 8011. Reenacted, Laws 1939, p. 674.)"

It would seem that the above quoted portion of the statute plainly indicates that in counties of not less than twenty thousand inhabitants or more than fifty thousand inhabitants, the county surveyor is the "ex officio county highway engineer." In other words, the person who holds the office of county surveyor is also the county highway engineer by reason of Section 8660.

The office of county surveyor is filled by election of an individual to that office, by reason of Section 13190, Mo. R. S. 1939. Therefore, the County Court cannot appoint a county surveyor, and the county surveyor being the ex officio highway engineer, the County Court cannot appoint a county highway engineer.

#### CONCLUSION

It is the opinion of this department that the County Court, of counties of not less than twenty thousand inhabitants or more than fifty thousand inhabitants, does not have the authority to appoint a county highway en-

Hon. Kelso Journey

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gineer under Section 8660, Mo. R. S. 1939.

Respectfully submitted,

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APPROVED:

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ROY McKITTRICK  
Attorney General

WCB:meh