

COUNTY SURVEYOR:

County court is required to furnish county surveyor with such surveying equipment as is necessary for the performance of his official duties. No authority to appoint a county foreman under provisions of Section 8655, Laws, 1945, page 1493.

COUNTY HIGHWAY ENGINEER:

January 18, 1949



Honorable Roderic R. Ashby
Prosecuting Attorney
Mississippi County
Charleston, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department and reading as follows:

"A, a County in Missouri, has a population of 18,000. At the General Election 1948 B was duly elected to the office of County Surveyor of that County.

"B, has taken that office since January 1, 1949.

"C, the County Court has appointed D, a permanent County Highway Foreman at a salary of \$300.00 per month under Section 8655 of the 1945 Session Laws permitting them to do this instead of using B as such. All of the County equipment was inventoried to D. D has an office which B shares with D. B's salary is fixed on a fee basis. There is not enough fee work in this county to provide B a livable wage.

"Questions:

"Is B entitled to have furnished him the equipment necessary to discharge his duties as County surveyor plus an office.

"Should C appoint a County Engineer instead of a County Foreman?"

In answer to your first question, we are enclosing an official opinion of this department rendered under date of March 23, 1939, to David A. Dyer.

Section 8655, Laws of Missouri, 1945, page 1493, provides as follows:

"The county courts of each county in this state in classes two, three and four are hereby authorized and empowered to appoint and reappoint a highway engineer within and for their respective counties at any regular meeting, for such length of time as may be deemed advisable in the judgment of the court at a compensation to be fixed by the court. The provisions of this article shall apply only to counties of classes two, three and four."

We assume from your letter, of course, that the man as county foreman is performing the duties enjoined by law upon the county highway engineer. Section 8655 provides specifically the power and authority of the county court to appoint a county highway engineer. It does not provide any authority for the county court to appoint a foreman to perform the duties of the county highway engineer. Since many duties are by law specifically enjoined upon the county highway engineer and he is required by law to give a bond, it is our opinion that under the provisions of Section 8655, there is no authority of the county court to employ a county foreman to perform the duties of the county highway engineer.

CONCLUSION

It is the opinion of this department that it is the duty of the county court to furnish the county surveyor with such surveying equipment as may be reasonable and necessary for the performance of his official duties as county surveyor. It is further the opinion of this department that the county court is not authorized, under the provisions of Section 8655, Laws of Missouri, 1945, page 1493, to employ a county foreman to perform the duties enjoined by law upon the county highway engineer.

Respectfully submitted,

APPROVED:

J. E. TAYLOR
Attorney General

C. B. BURNS, JR.
Assistant Attorney General

CBB:VLM