

Answer by letter-Wieler

February 5, 1970

OPINION LETTER NO. 27

Honorable Haskell Holman  
Auditor of the State of Missouri  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Holman:

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

"1. Is a County Court of a second class county empowered by any statutory provisions to employ an individual as Administrative Secretary to the County Court and expend county revenue funds for the salary of such employee?"

A search of the Missouri statutes reveals no express statutory provision authorizing a second class county court to employ such an individual. However, we note with approval the following passage from the case of *Aslin v. Stoddard County*, 341 Mo. 138, 106 S.W.2d 472, 475 (1937):

"By section 2078, R.S.1929, Mo.St. Ann. §2078, p. 2658, [49.270, RSMo 1959] it is provided that the county court 'shall have control and management of the property, real and personal, belonging to the county.' This express authority and duty carries with it the necessarily implied authority to employ such labor and service as may reasonably be requisite in order to effectuate the express power granted. Of such character is the work of a janitor, such as plaintiff herein. By the order of court and the contract pursuant thereto employing him he did not become an officer of

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the county, but only an employee, to whom no attempt was made to delegate governmental or other such functions of the court which from time to time might involve matters of discretion to be exercised by that body. . . ."

It is our feeling that this language clearly authorizes second class county courts to employ individuals, whose labor and service are reasonably necessary in order that the county court may carry out the express powers granted to it by statute, as long as such employment does not involve an attempt by the county court to delegate functions of the court, which involve matters of discretion to be exercised by that body, to such individual. Also, the county court has no authority to hire an individual called an administrative secretary to perform any of the functions which are placed on other county officials by statute.

Section 50.550, RSMo 1959, provides that the county budget in second class counties shall contain adequate provision for the expenditures necessary for the salaries, office expenses, and deputy and clerical hire of all county officers and agencies. It also provides that all expenditures for operation and maintenance of the various county agencies shall be charged to the general fund.

Thus, it is our view that the express powers and duties given a second class county court by statute carry with them the implied authority to employ an individual called an "administrative secretary" and pay him out of general county funds only if such employment is necessary in order to effectuate the express powers granted the court.

Yours very truly,

JOHN C. DANFORTH  
Attorney General