

LAND SURVEYOR:
COUNTY SURVEYORS:

A duly elected county surveyor cannot practice as a land surveyor in this state as defined in Section 327.272, RSMo 1969, unless he has been duly registered as a land surveyor under Chapter 327, RSMo 1969.

OPINION NO. 405

November 15, 1971

Honorable Ray Lee Caskey
Prosecuting Attorney
Oregon County
P. O. Box 278
Alton, Missouri 65606



Dear Mr. Caskey:

This is in response to your request for an opinion from this office concerning the following matter:

"Is a duly elected County Surveyor who has not been duly registered as a land surveyor in Missouri by 'The Missouri Board for Architects, Professional Engineer's and Land Surveyors', prohibited from practicing as a land surveyor by Section 327.281 RSMo, as that practice is defined in Section 327.272 RSMo. within the county for which he was elected. and in this connection, has the 1969 Legislature enacting the new Sections 327.272-281 changed the law in Missouri to the point that that part of Attorney General's Opinion Number 146, Niewoehner, issued 14 May 1968, which held that a duly elected and subsequently qualifying county surveyor who is not a registered land surveyor could 'perform the duties of County Surveyor within the county for which he was elected' cannot be considered applicable as authority under the new statute?"

On May 14, 1968, this office issued an opinion to the effect that county surveyors when duly qualified may perform surveys for the general public within the county for which they were elected without being a duly registered land surveyor. At that time Section 344.020, RSMo 1959, provided as follows:

"It shall be unlawful for any person to practice, or offer to practice, or to in any manner advertise or indicate to the public that

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he is engaged in, or will engage in the practice of land surveying in this state, without first registering with the state board of registration for architects and professional engineers, as a land surveyor."

In 1969 the legislature enacted Senate Bill No. 117 which repealed Section 344.020, RSMo 1959, and enacted a new section which is now Section 327.281, RSMo 1969, which provides as follows:

"No person, including any duly elected county surveyor, shall practice as a land surveyor in Missouri as defined in section 327.272 unless and until the board has issued to him a certificate of registration or a certificate of authority certifying that he has been duly registered as a land surveyor in Missouri, and unless such certificate has been renewed each year as hereinafter specified." (emphasis supplied)

The cardinal rule of statutory construction is to ascertain the intention of the lawmaking body and, as far as possible, give effect to the intention expressed. Household Finance Corporation v. Robertson, 364 S.W.2d 595 (Mo. banc 1963). The legislature is presumed to know prior construction of original acts, and an amendment substituting a new phrase from one previously construed generally indicates an intention that a different interpretation be given the new phrase. Salitan v. Carter, Ealey and Dinwiddie, 332 S.W.2d 11 (K.C.Ct.App. 1960). Amendatory statutes should be construed on the theory that the legislature intended something by the amendment. Holt v. Rea, 330 Mo. 1237, 52 S.W.2d 877 (1932).

It is the opinion of this office that the legislature when it repealed Section 344.020, RSMo 1959, and enacted a new section which is now Section 327.281, RSMo 1969, which expressly prohibits any duly elected county surveyor from the practice of land surveying as defined in Section 327.272, RSMo 1969, unless he has a certificate as a land surveyor, was familiar with the former interpretation of this statute, and consequently, enacted this amendment to prohibit a county surveyor from the practice of surveying unless duly registered.

Opinion No. 146 issued May 14, 1968, is hereby withdrawn.

CONCLUSION

It is the opinion of this office that a duly elected county surveyor cannot practice as a land surveyor in this state as defined in Section 327.272, RSMo 1969, unless he has been duly registered as a land surveyor under Chapter 327, RSMo 1969.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large, prominent initial "J".

JOHN C. DANFORTH
Attorney General