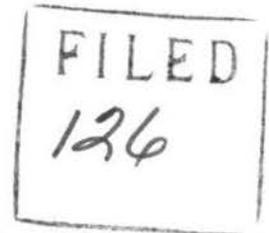


SHERIFFS: The provisions of Section 66.250,
POLICE: RSMo (Senate Bill 389, 76th General
COUNTIES: Assembly, Second Regular Session)
COUNTY OFFICERS: requiring appointed police officers
COUNTY CHARTERS: in police departments in any county
of the first class having a charter
form of government to complete training or show completion of
certain training courses in law enforcement or possess specified
experience will apply to appointed officers in the sheriff's
office of Jackson County when its Charter goes into effect Janu-
ary 1, 1973.

OPINION NO. 126

October 11, 1972

Honorable Jack E. Gant
Missouri Senate
9517 East 29th Street
Independence, Missouri 64052



Dear Senator Gant:

This opinion is in answer to your opinion request in which
you ask:

"Will section 66.250, RSMo 1969, [sic] apply
to [the sheriff's office of] Jackson County
when its County Charter goes into effect Jan-
uary 1, 1973."

Section 66.250, Senate Bill No. 389 of the 76th General Assem-
bly, Second Regular Session, provides:

"1. Any person appointed after September 28,
1971, to serve as a police officer in any po-
lice department in any county of the first
class having a charter form of government
shall, if he has not heretofore completed the
training required by this subsection, within
six months from the date of the appointment,
cause to be filed with the prosecuting attor-
ney of the county proof that he has satis-
factorily completed a law enforcement officer
training course conducted by the Federal Bu-
reau of Investigation National Academy or the
Southern Police Institute of Louisville, Ken-
tucky, or a training course with a minimum of

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six hundred hours of instruction conducted by the county police department alone or in cooperation with any municipal police department authorized by law to operate police training courses, the state highway patrol, or any accredited course for police officers approved by such county police department; provided that any person who has successfully completed a basic police recruit training course conducted by the St. Louis County and Municipal Police Training Academy, the City of St. Louis Police Academy or the Kansas City Police Academy, or who has eight continuous years' of service and experience as a full-time police officer, shall have fulfilled the requirements of this law.

"2. Any person so appointed who fails to comply with the provisions of this section within the six months' period shall not thereafter receive any compensation nor shall he be authorized to act as a police officer until he has complied.

"3. The chief executive officer of each police department shall be responsible for the enforcement of this section, and shall notify the prosecuting attorney of the county of the appointment of any new officer not later than five days after the date of the appointment.

"4. Any person who willfully violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be punished as provided by law."

Section 66.250, RSMo 1969, referred to, "Any person hired . . . to serve as a police officer in a municipal police department in any county of the first class having a charter form of government . . ."

St. Louis County has its own police department which fulfills the police requirement for St. Louis County, State on Inf. Dalton ex rel. Shepley v. Gamble, 280 S.W.2d 656 (Mo. 1955) whereas the police function for Jackson County will be provided by the sheriff's office under Article VII of the Constitutional Home Rule Charter which authorizes the election of a sheriff and the appointment of officers by him. Thus, whether such police function is fulfilled by the sheriff's office or by the county police department makes no difference in the premises since both are "police

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departments" in our view within the language of present Section 66.250 which broadly includes "any police department in any county of the first class having a charter form of government."

Sections 18(b) and 18(e) of Article VI of the Constitution provide as follows:

- 18(b) "The charter shall provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the Constitution and laws of the state."
- 18(e) "Laws shall be enacted providing for free and open elections in such counties, and laws may be enacted providing the number and salaries of the judicial officers therein as provided by this Constitution and by law, but no law shall provide for any other office or employee of the county or fix the salary of any of its officers or employees."

The question that must be answered is whether the provisions of these constitutional provisions authorizing a county charter to make certain provisions relating to county officers and prohibiting the enactment of certain laws relating to county officers is a bar to the application of Section 66.250 to a charter county.

It is clear that Section 66.250 does not purport to provide for or affect the number, kinds or salaries of county officers or to provide for the exercise of powers or duties of county officers.

We do not believe that the provisions of Section 66.250 provide for the terms of office of county officers. The provisions of Section 66.250 simply provide that police officers in first class charter counties shall possess certain experience or training qualifications in order to continue to hold the position of policeman. Such section does not purport to affect the term of an officer any more than does a statute providing that a county officer forfeits his office upon conviction of a crime.

We do not believe that the provisions of Section 66.250 interfere with the "manner of selection" of county officers so as to bar the application of Section 66.250 to a first class charter county's appointed police officers.

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It was held in the Gamble case that sheriffs are county officers and that St. Louis County alone has the right to determine "the number, kinds, manner of selection, terms of office and salaries" of its county officers under section 18(b). We have found no precise definition of the language "manner of selection" as used in the Constitution and we are of the view that it refers primarily to whether such county officers are to be elected or appointed. In this respect it must be borne in mind that our courts have repeatedly held that the exercise of the police power is a matter of overall statewide concern. State ex rel. Reynolds v. Jost, 175 S.W. 591, 594 (Mo. 1915); State ex rel. Spink v. Kemp, 283 S.W.2d 502, 522 (Mo. 1955); State ex rel. Sanders v. Cervantes, 480 S.W.2d 888, 890 (Mo. 1972). At the same time we recognize that at least one Missouri Supreme Court opinion has indicated that the exercise of such charter powers would place such a police department beyond the control of the legislature for some purposes. Stemmler v. Einstein, 297 S.W.2d 467, 473 (Mo. 1957).

However, after an analysis of these cases and related authorities and in the absence of any clear conflict with the Constitution, we have reached the conclusion that the experience or training requirements of Section 66.250 are a valid exercise of legislative power as applied to such a county and that such a requirement does not conflict with the charter county's constitutional authority.

CONCLUSION

It is the opinion of this office that the provisions of Section 66.250, RSMo (Senate Bill 389, 76th General Assembly, Second Regular Session) requiring appointed police officers in police departments in any county of the first class having a charter form of government to complete training or show completion of certain training courses in law enforcement or possess specified experience will apply to appointed officers in the sheriff's office of Jackson County when its Charter goes in effect January 1, 1973.

The foregoing opinion, which I hereby approve, was prepared by my assistant, C. B. Burns, Jr.

Very truly yours,



JOHN C. DANFORTH
Attorney General