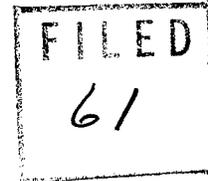


COUNTY COURT: Under Section 49.010, RSMo Supp. 1984,  
COUNTY COMMISSION: effective January 1, 1985, the "County  
CONSTITUTIONAL LAW: Court" became known as the "County  
Commission", and the county "Judges"  
became known as "Commissioners" of the county. "The Office of the  
Clerk of the County Court" became known as "The Office of the Clerk  
of the County Commission".

April 1, 1985

OPINION NO. 61-85

The Honorable Marvin W. Opie  
Prosecuting Attorney, Morgan County  
Post Office Box 966  
Versailles, Missouri 65084



Dear Mr. Opie:

This opinion is in response to your questions asking as follows:

1. Is the Morgan County Court to be known as the "Morgan County Court" or as the "Morgan County Commission"?
2. Are the members of that body to be called "Judges" or "Commissioners"?
3. Is the present presiding judge of the County Court to be known as the "Presiding Judge" or "Presiding Commissioner" until the end of his term?

In Opinion No. 66-1967, this office concluded that inasmuch as the administrative body of the county is designated as the county court in the Missouri Constitution, it would take a constitutional amendment to change its name and that the term "judges of the county court" or "judges" is statutory in origin and, therefore, can be changed by statute. For the reasons stated below we believe that this opinion is incorrect in part and, therefore, is withdrawn.

Article VI, Section 7, Missouri Constitution, provides as follows:

In each county not framing and adopting its own charter or adopting an alternative form of county government, there shall be elected a county court of three members which shall manage all county business as prescribed by

The Honorable Marvin W. Opie

law, and keep an accurate record of its proceedings. The voters of any county may reduce the number of members to one or two as provided by law.

Section 49.010, RSMo Supp. 1984, effective January 1, 1985, provides as follows:

The county court shall be known as "County Commission" and shall be composed of three members, to be styled "Commissioners" of the county, and each county shall be districted by the commissions thereof into two districts, of contiguous territory, as nearly equal in population as practicable, without dividing municipal townships.

Further, Section 49.020, RSMo Supp. 1984, provides for the election and terms of the office of the commissioners. Section 49.050, RSMo Supp. 1984, provides that the clerks of the county commissions shall certify to the Governor the names of the persons elected as county commissioners and that the Governor shall thereupon commission all such persons as commissioners for their respective terms for which they may have been elected. These amendment as well as others which we do not cite here, no doubt, were made to conform to the name styling provisions of Section 49.010.

Our first conclusion in Opinion No. 66-1967 was that the name of the county court could not be changed without a constitutional amendment. This conclusion we believe was in error inasmuch as it is our view that the legislature did have authority to provide, as they did in Section 49.010, that the county court shall be known as the "County Commission". Clearly, the county court has not been abolished; Section 49.010 merely changed the name by which it is to be known. Since the county court still exists, Article VI, Section 7, Missouri Constitution, has not been violated.

In Opinion No. 66-1967, this office also concluded that the title of the judges of the county court could be changed. We believe that conclusion is correct and that Section 49.010 has accomplished that purpose by designating the county court judges as "Commissioners".

Your third question asks whether the presiding judge of the county court is to be known as the "Presiding Judge" or "Presiding Commissioner" until the end of his term. We realize that under

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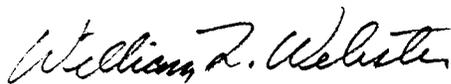
previous Section 49.050, the presiding commissioner was commissioned as a judge. However, it is our view that the legislature did possess the authority to change the title of such office and did effectively do so by providing that the three members of the county commission shall be styled commissioners effective January 1, 1985. It follows that the style changed for all such members as a matter of law on that date.

In addition, we point out that a further question has been raised by some counties which we wish to dispose of here. The question raised is what effect Section 49.010 has on the title of "The Office of the Clerk of the County Court" under Section 51.010, RSMo 1978. It is our view that these statutes have to be read together and, accordingly, on the effective date of Section 49.010 "The Office of the Clerk of the County Court" became known as "The Office of the Clerk of the County Commission". See, also, the sections following Section 49.010 which refer to the clerk of the county commission.

#### Conclusion

It is the opinion of this office that under Section 49.010, RSMo Supp. 1984, effective January 1, 1985, the "County Court" became known as the "County Commission", and the county "Judges" became known as "Commissioners" of the county. "The Office of the Clerk of the County Court" became known as "The Office of the Clerk of the County Commission".

Yours very truly,



WILLIAM L. WEBSTER  
Attorney General