

COUNTIES: A county of the first class  
CONSTITUTIONAL CHARTER COUNTIES: with a charter form of govern-  
FINANCIAL STATEMENT: ment must comply with Section  
50.800, RSMo 1969, relating to  
county financial statements, and may not modify the form and con-  
tent of the county financial statement prescribed by that section;  
but such a county may designate appropriate officers or agencies  
to perform the duties which that section otherwise imposes on  
county courts.

OPINION NO. 107

March 9, 1973

Honorable Donald L. Manford  
Missouri Senate, 8th District  
Room 425 Capitol Building  
Jefferson City, Missouri 65101



Dear Senator Manford:

This official opinion is issued in response to your request for a ruling on the following question:

"Does a county of the 1st class with a charter form of government have to comply with Sec. 50.800, RSMo 1969, [relating to county financial statements] or may that county by local ordinance elect not to comply with same and not publish such a statement or may said county by ordinance modify the form and content of said publication contrary to Section 50.800, RSMo 1969?"

Your opinion request states that Jackson County is not attempting to comply with the requirements of this statutory provision.

Article VI, Section 18(a) of the Constitution of Missouri 1945, provides that:

"Any county having more than 85,000 inhabitants, according to the census of the United States, may frame and adopt and amend a charter for its own government as provided in this article, and upon such adoption shall be a body corporate and politic."

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Section 18(b) provides that:

"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."  
(Emphasis added)

These constitutional provisions were interpreted in the case of State on Inf. Dalton ex rel. Shepley v. Gamble, 280 S.W.2d 656 (Mo. banc 1955). The court stated that a county:

". . . regardless of its charter, remains a legal subdivision of the state. . . . As such, it is charged with the performance of the state functions just as other counties are. Section 18(b) . . . expressly requires that the charter must provide 'for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state.'  
(280 S.W.2d at 659)

Section 50.800.1, RSMo 1969, provides that:

"On or before the first Monday in March of each year, the county court of each county shall prepare and publish in some newspaper of general circulation published in the county, if there is one, and if not by notices posted in at least ten places in the county, a detailed financial statement of the county for the year ending December thirty-first, preceding."

[The remainder of Section 50.800 and its companion, Section 50.810, RSMo Supp. 1971, describe the contents and manner of publication of the county financial statement.] This statute refers to "each county" and makes no exception for counties of the first class with a charter form of government.

It is true that the statute places responsibility for the preparation of the county financial statement upon the county court of each county, and that Jackson County has replaced its county court by a county legislature under the terms of its charter. However, in the Gamble case, supra, the court stated (with respect to the duties mandated by state law to county sheriffs) that:

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". . . provision must be made by the charter county for the performance of the duties enjoined upon sheriffs by our statutes, but the county has the choice as to what officer or agency will be designated to perform the duties. . . ." (280 S.W.2d at 660)

Again, in Hellman v. St. Louis County, 302 S.W.2d 911 (Mo. 1957), the court stated:

". . . We know of no constitutional or statutory provision that a charter county must exercise the powers and duties enjoined upon it by the constitution in precisely the same manner as prescribed by the general law of the state. . . . Little purpose would be served in authorizing the adoption of charters of local self-government in the more populous counties if such counties could not adopt reasonable means and methods of carrying out their governmental functions in such a manner as to meet the peculiar needs of such counties. . . ." (302 S.W.2d at 916)

We conclude that a county of the first class with a charter form of government must perform the functions mandated by Section 50.800.

However, we find no authorization in either Section 50.800, or Article VI, Section 18 of the Constitution of Missouri 1945, for a county of the first class with a charter form of government to alter the form or substantive content of its county financial statement. We conclude that the county may alter the prescribed statutory form of the statement only insofar as that statement explicitly makes reference to a county court as the agency responsible for its preparation (as in Section 50.800.11, relating to the certificate of the person actually preparing the prescribed information).

#### CONCLUSION

Therefore, it is the opinion of this office that a county of the first class with a charter form of government must comply with Section 50.800, RSMo 1969, relating to county financial statements, and may not modify the form and content of the county financial statement prescribed by that section; but such a county may designate appropriate officers or agencies to perform the duties which that section otherwise imposes on county courts.

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The foregoing opinion, which I hereby approve, was prepared by my assistant, Mark D. Mittleman.

Very truly yours,

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

JOHN C. DANFORTH  
Attorney General