



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN
ATTORNEY GENERAL

June 18, 1980

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CONSUMER PROTECTION: 295-3751

ATTORNEY GENERAL OPINION No. 80- 135

Mr. James L. Bush
Smith Center City Attorney
Windscheffel & Bush, Chartered
206 South Main
Smith Center, Kansas 66967

Re: Cities of the Third Class--Appointive Officers--
City Clerk Running for County Office

Synopsis: A city clerk may remain in office while at the same
time seeking election to county office. Cited herein:
K.S.A. 15-204.

Dear Mr. Bush:

You have asked for the opinion of this office whether it
is proper for the city clerk to remain in office while at
the same time seeking election to the office of county treasurer
in Smith County.

We can find nothing in the Kansas statutes or in the general
authorities to preclude the city clerk from holding his city
office and seeking the county office simultaneously. Indeed,
to the contrary, we note in 29 C.J.S. Elections, §130, the
following statement pertinent to your question:

"Under some statutes the incumbent of an office
cannot become a candidate for another office.
Under others an incumbent public office holder
may qualify as a candidate for another public
office even though he is prohibited from
occupying both offices at the same time"
(Citations omitted.)

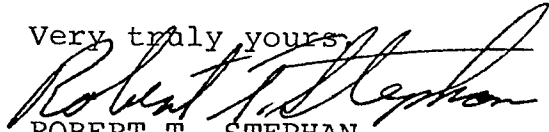
Accord, 3 McQuillin, Municipal Corporations (3rd Ed.), §12.66.

Of course, should the clerk's campaign activities unduly interfere
with the performance of his city job, the city council may deem
it appropriate to remove him from office, under K.S.A. 15-204.
But, except for the possibility of removal for neglect of duty

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in office attributable to the clerk's candidacy for another office,
we are aware of no other provision which would bar the clerk from
holding his present office and seeking election as county treasurer.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Steven Carr
Assistant Attorney General

RTS:BJS:SC:pf