

5 QUESTIONS IN RE: COUNTY BUDGET

November 15, 1934.

11-16



Mr. Sam Schultz,  
Clerk of County Court,  
Dunklin County,  
Kennett, Missouri.

Dear Sir:

This department is in receipt of your letter of October 17, 1934 containing several inquiries relative to the classification of certain expenditures under the County Budget Law. We shall proceed to answer your questions in the order indicated in your letter.

I

"Into what class, under the Budget Law, will the expense of light, heat, water, etc. consumed at the county jail fall?"

Class 5, Sec. 2, of the County Budget Act (Laws of Mo. 1933, page 342) is as follows:

"The county court shall next set aside a fund for the contingent and emergency expense of the county, which shall in no case be more than one-fifth of the anticipated revenue. From this class the county court may pay contingent and incidental expenses and expense of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes."

It appears that the Legislature had in mind certain definite classes of expenditures for priority and accordingly designated specifically in the first four classes how and for what purposes the funds were to be expended. Classes 5 and 6 are indefinite in their nature, except that in Class 5, hereinbefore quoted, there is contained the words "for the contingent and emergency expense of the county".

The expense of light, heat, water, etc. consumed at the county jail cannot be anticipated to any degree of accuracy; however, we are of the opinion that they are contingent expenses and that they can be paid out of the funds in Class 5, Sec. 2 of the County Budget Law.

## II

"Into what class will the salary of the Supervisor of the County Farm and expense of fuel, light, etc. of the County Farm fall?"

Class 4, Sec. 2 of the County Budget Act (Laws of Mo. 1933, page 341-342) is as follows:

"The county court shall next set aside the amount required to pay the salaries of all county officers where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. Only supplies for current office use and of an expendible nature shall be included in this class. Furniture, office machines and equipment of whatever kind shall be listed under class six."

The County Infirmary is a public building of the county. The Superintendent is appointed by the County Court according to statute; therefore he should, by the terms of Class 4, hereinbefore quoted, be considered a county officer within the meaning of the Act. In view of this, we are of the opinion that the salary of the Superintendent of the County Farm should be paid from the funds under Class 4, supra.

As to the fuel, lights, etc. of the County Farm, what we have said under Question I is applicable in this instance, and these expenses should be paid out of Class 5, Section 2.

## III

"We are agreed that the expense of fuel, light, etc. expended in connection with the holding of our Circuit Court falls into Class 2, but all of the coal consumed by the entire court house is in and comes out of the same bin, and all of the lights of the court house, as well as the water, are on one meter and we know of no manner in which the Circuit Court expenses can be segregated on this account from the expenses of the county offices. Neither do we know into what class the expense of lights, heat, etc. for the offices of the county officers will fall, and we desire advice on this proposition."

The expenses as set out in the above question could really be put into one group and called "Court House Incidental Expenses". We know of no manner in which the lights, heat, etc. of the county court, circuit court, office of recorder of deeds, etc. could be segregated and each pay their proportionate share. It is our opinion that these expenses are incidental expenses of the county and should be paid out of the funds in Class 5, Section 2.

## IV

"This county has a County Agent who draws no salary from the county and no appropriation has been made for the expense of this office, yet certain expenses by way of office rent, traveling expenses, stationery, etc. have been and are being incurred. Into what class should this fall, if any?"

From the facts as contained in the above question, we cannot determine whether or not the County Agent is an officer of the county within the meaning of the terms of Class 5, supra. We cannot determine as to whether or not the office of County Agent has been abolished in your county. In the event this office has been abolished, the county would not be liable for any expenses of any nature whatsoever; however, assuming that this office is still in existence, even though the Agent draws no salary from the county, it is the opinion of this department that the expenses of the County Agent, as detailed in your inquiry, may be paid out of the funds in Class 4, Section 2, supra, except as to traveling expenses, and we know of no legal authority for the county to pay the traveling expenses of the County Agent.

## V

"The county is maintaining a health unit, a county doctor, nurses, rest room, etc. Into what class should the salary of the doctor, nurses, rent, light, heat, etc. fall, if any?"

Section 9025, R.S. Mo. 1929 was repealed and a new section enacted in lieu thereof known as Section 9025, Laws of Mo. 1933, page 271 under which it is the duty of the county court in each county of the state to appoint a deputy state commissioner of health at the February Term thereof. We construe Class 4, Sec. 2 of the County Budget Act to be broad enough in its scope to include a deputy health commissioner as a county officer within the meaning of the Act; therefore, the salary of said officer should be paid from the funds in Class 4, supra.

The same logic and argument is applicable to the salary of the county nurse. As to the other expenses of the Health Unit, it is our opinion that they should be paid out of the funds under Class 5, supra, for the same reason that we offer in answering your first question.

We think when the Legislature passed the County Budget Act and referred to "county officers" in Class 4 it intended by the expression "payable out of the ordinary revenue of the county" to not only include the elective officers, but the statutory appointive officers. We concede that it is difficult to determine the classification of the various items as mentioned in your request and our classification may be contrary to the opinion of your Prosecuting Attorney, but we have attempted to classify the various expenditures independently of his suggestions.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General

APPROVED:

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ROY MITTRICK,  
Attorney General

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