

COUNTY BUDGET ACT: Traveling expenses of prosecuting attorney
can be paid out of surplus in class 5,
or can be paid out of class 6.

February 26, 1941

Mr. Robert P. C. Wilson III
Prosecuting Attorney
Platte County
Platte City, Missouri



Dear Sir:

This department is in receipt of your letter of
February 10th, wherein you make the following inquiry:

"A problem has arisen confronting the
county court in this county and I res-
pectfully request an official opinion
from your office on that problem.

During my predecessor's term namely,
during the course of the year 1939,
he incurred traveling expenses in the
discharge of his official duties.
When our county court met last week
he then presented the bill to it for
payment. I desire your opinion of
whether there would be any objection
to the payment of this bill at this
time.

A somewhat relevant fact in the case
may be the fact that at the close of the
year 1939 a surplus existed in all five
classes.

If your answer to my first question is
in the negative, then I desire advice
as to what class payment should be made
from."

February 26, 1941

There does not appear to be any controversy over your predecessor's request for reimbursement of his traveling expenses. We assume that it is a legal obligation of the county. We are enclosing pertinent opinions rendered by this department on March 1, 1937 to Honorable Lee Barham, Circuit Clerk of Stoddard County, and Honorable R. L. Jones, Clerk of the County Court of New Madrid County, Missouri. These opinions, in effect, answer your question as to whether or not the obligation can be met at this time. We are of the opinion that same can be met at the present time and for the further reason that you state you have a surplus in all classes for the year 1939. We, therefore, assume that you have no outstanding warrants for prior years and that you have met all current obligations that were estimated in the budget for 1939.

Under Section 10911 R. S. Mo. 1939, the section being known as part of the county budget law, there are five classes of expenditure. Class 4 relates to the payment of salaries of county officers. The officers are privileged only to include in the estimate for the conduct of the offices blanks and supplies of an expendable nature, and we are of the opinion that traveling expenses of the prosecuting attorney could not be classed under class 4. Class 5 contains a provision relative to expenditures for the contingent and emergency expenses of the county and further provides that a transfer of any surplus funds from the prior classes may be made to class 5. It contains the direct prohibition against the paying of personal services which have been estimated and included under class 4 of county officers. Under class 6 any balance which we interpret to mean a surplus may be expended for any lawful purpose.

CONCLUSION

We are of the opinion that if the expenses of your predecessor were not included in his budget when making his estimate under class 4, that the same may be paid out of any surplus in class 5, or the same may be paid

Mr. Robert P. C. Wilson III -3- February 26, 1941

from any funds in class 6 provided that no lawful
outstanding warrants are now in existence.

Respectfully submitted

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

OWN:RT