

COUNTY BUDGET AC
COUNTY COURT:

County court cannot re-budget or amend
budget after final approval and certi-
fication.

March 17, 1944.



Mr. W. A. Holloway
Chief Clerk
State Auditor's Office
Jefferson City, Missouri

Dear Sir:

We are in receipt of your letter of February 26, 1944,
in which you request an opinion of this department. Your
letter reads as follows:

"The 62nd General Assembly enacted House
Bill 112, which bill was approved by the
Governor July 31, 1943, and provides
that under certain conditions County
Courts shall appropriate specific amounts
for the use of certain farm organizations,
which appropriation, . . . shall be in-
cluded by said County Court in class four
of the budget expenditures."

"We have a condition wherein a County
Court certified their budget for 1944 to
this office and did not include any appro-
priation under the provisions of the afore-
mentioned act although there was an organ-
ization in the County qualified to receive
such an appropriation. The County Court
now advises that they would like to correct
their budget by amendment and provide for
an appropriation as directed by Section 5
of House Bill 112. However, in order to do
this, it will be necessary for them to
eliminate from their original budget some
appropriations provided for in class five.
This is necessary to establish available
revenue for this appropriation in class
four."

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"We would like your opinion stating whether the Court can make this corrected amendment and if such a corrected amendment can be made, what would be the liability upon the County Clerk and County Treasurer for participation in the issuance or payment of warrants chargeable against this new appropriation in class four if the issuance and payment of such warrant would invalidate the payment of any claim that might arise against any of the items originally budgeted in class five, which appropriated items would be eliminated by the corrected amendment.

"Due to the existing circumstances, we would appreciate your opinion on these points at your earliest convenience."

Article 17, Chapter 102, Laws of 1943, page 319, provides certain acts to be done and conditions to be met, qualifying county farm organizations for participation in county funds. It must be presumed, since the county court did not include an estimate covering this organization, that the county court performed its duties under the county budget law and that the county farm organization presented no estimate to the county court and otherwise failed to bring itself within the provisions of Article 17, Chapter 102, supra. We will also assume from the date and language of the above request for opinion that the county involved contains a population of 50,000 inhabitants or less, thus limiting the scope of our consideration to Sections 10910 to 10917, R. S. Mo. 1939, inclusive.

Section 10910, R. S. Mo. 1939, provides the general procedure for preparation of the county budget, reading, in part, as follows:

" * * * The county courts of the several counties of this state are hereby authorized, empowered and directed and it shall be their duty, at the regular February term of said court in each year, to prepare and enter of record and to file with the county treasurer and the state auditor a budget of

estimated receipts and expenditures for the year beginning January 1, and ending December 31. * * * "

Section 10917, R. S. Mo. 1939, sets out the specific procedure for revision of estimates of county expenditures that are presented to the county court, also the procedure for approval and certification of the budget, reading, in so far as pertinent, as follows:

" * * * After the county court shall have revised the estimate it shall be the duty of the clerk of said court forthwith to enter such revised estimate on the record of the said court and the court shall forthwith enter thereon its approval. The county clerk shall within five days after the date of approval of such budget estimate, file a certified copy thereof with the county treasurer, taking his receipt therefor, and he shall also forward a certified copy thereof to the state auditor by registered mail.
* * * "

There is no provision in either of these sections of the statutes for alteration after approval by the county court, or revision or resubmission of the budget to the county treasurer and the state auditor. They specifically point out the mode and manner of procedure in arriving at the proper estimate of the county budget in order to keep the county within the estimated revenue of that year.

It was held in the case of Nodaway County v. Kidder, 129 S. W. (2d) 857, 1. c. 860, that this procedure must be followed, the court stating:

" * * * If the statute provides compensation in a particular mode or manner, then the officer is confined to that manner and is entitled to no other or further compensation or to any different mode of securing same. Such

statutes, too must be strictly construed as against the officer." (Cases cited)

And again the court stated in the case of Gill v. Buchanan County, 142 S. W. (2d) 665, 1. c. 668:

" * * * This court has held that the purpose of the County Budget Law was 'to compel * * * county courts to comply with the constitutional provision, section 12, art. 10' by providing 'ways and means for a county to record the obligations incurred and thereby enable it to keep the expenditures within the income.' Traub v. Buchanan County, 341 Mo. 727, 108 S. W. (2d) 340, 342."

In the case of Keane v. Strodman, Sheriff, 18 S. W. (2d) 896, 1. c. 898, the court stated:

" * * * The familiar maxim of 'expressio unius est exclusio alterius' may also be invoked, for the maxim is never more applicable than in the construction of statutes. Whitehead v. Cape Henry Syndicate, 105 Va. 463, 54 S. E. 306; Hackett v. Amsden, 56 Vt. 201, 206; Matter of Attorney General, 2 N. M. 49.

"Certainly where, as at bar, the statute (section 8702) limits the doing of a particular thing to a prescribed manner, it necessarily includes in the power granted the negative that it cannot be otherwise done. This is the general rule as to the application of the maxim. * * *"

Since it is the opinion of this department that the county court cannot rebudget or again revise the original budget, it

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is unnecessary for us to consider the further questions concerning the liability of the county clerk and the county treasurer under the circumstances set forth in your request.

Respectfully submitted

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Assistant Attorney General

APPROVED:

RON McALLISTER
Attorney General

RCL:ER