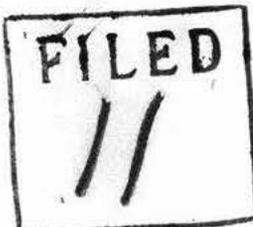


COUNTY BUDGET LAW:

General county revenue may be budgeted in Class 6 for the construction, repair and maintenance of bridges.



June 27, 1952

7-1-52

Mr. Edwin F. Brady
Prosecuting Attorney of
Benton County
Warsaw, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department which request reads in part as follows:

"If the county court runs the thirty-five cent levy under Art. X, sec. 12(a) for the road and bridge tax, is the court permitted to budget any funds to be raised out of the general revenue levy under Section 137.065 to be expended for the construction and repair of bridges and to set the same up in class 6 of the budget?"

Section 50.680, RSMo 1949, in regard to Class 6 provides as follows:

"After having provided for the five classes of expenses heretofore specified, the county court may expend any balance for any lawful purpose; provided, however, that the county court shall not incur any expense under class six unless there is actually on hand in cash funds sufficient to pay all claims provided for in preceding classes together with any expense incurred under class six; provided, that if there be outstanding warrants constituting legal obligations such warrants shall first be paid before any expenditure is authorized under class six."

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It is noted that this section provides that after the first five classes have been provided for, the balance may be budgeted in class six to be used for any lawful purpose. To answer your inquiry we must determine whether the purpose for which your county court is contemplating expenditure of money from class six are lawful purposes. In other words, is it lawful for the county court to construct and repair bridges? We turn to the statutes for the answer.

Section 234.010, RSMo 1949, provides that it shall be the duty of the county court to determine what bridges shall be built and maintained by the county and what by the road districts as follows:

"Each county court shall determine what bridges shall be built and maintained at the expense of the county and what by the road districts; provided, that no road district shall be compelled to build a bridge which costs fifty dollars or more."

Section 234.040, RSMo 1949, provides that a road district shall not be required to repair any bridge where the cost is more than fifty dollars.

Section 234.020, RSMo 1949, provides that the construction of all bridges costing over fifty dollars shall be under the supervision of the county highway engineer.

Section 234.030, RSMo 1949, provides that bridges damaged by flood, or otherwise in immediate danger of falling in or dangerous to public travel, may be repaired and an allowance shall be made for such repair by the county court.

Section 234.060, RSMo 1949, provides that where under certain circumstances taxpayers petition the county court for a bridge the county court, may, within their means, appropriate one-half of the funds needed for construction. Other provisions of Chapter 234 authorized the county courts to appropriate money for the construction of bridges between two counties or across state lines.

Section 233.115, RSMo 1949, provides that the county court may in its discretion out of county funds, construct, repair or maintain bridges in a special road district or appropriate money to the road district to assist in the construction, repair, or maintenance of bridges in the road district.

Although, the above cited statutory provisions are not intended to be exhaustive of the statutes relating to the duties of the county court in regard to the construction or repair of bridges or the

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appropriation of money therefor, we believe that they are sufficient to show for the purpose of this opinion, that where authorized by statutes the construction, repair and maintenance, of bridges is a lawful purpose for which county moneys may be expended. From the foregoing we therefore conclude that the construction, maintenance and repair of bridges where authorized are lawful functions of the county court whenever there are available funds for said purpose.

CONCLUSION

Therefore, it is the opinion of this department that, subject to the provision of Section 50.680, RSMo 1949, that the preceding five classes shall first be provided for, the county court would be permitted to budget funds to be raised out of a general revenue levy in class six to be used for the construction, repair or maintenance of bridges, since such construction, repair or maintenance is a lawful county function.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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