

County Budget Bill

GOVERNOR:

Title to bill must contain what, and when germane. ✓

SB 154 Law 33

May 11, 1933

Governor Guy B. Park
Capitol Building
Jefferson City, Missouri



Dear Governor Park:

This Department replies to your oral request for an opinion as to the constitutionality of Senate Bill Number 154, as we understand, on the particular question of whether or not the enactment violates Section 28 of Article IV of the Constitution of the State of Missouri.

The title to Senate Bill Number 154
is as follows:

"To provide for a County budget placing certain duties upon the County Court of the several Counties of this State, upon the County Clerks, the County Treasurer, and State Auditor; authorizing the County Court to designate someone to prepare a budget estimate, providing that certain officers shall furnish certain information, providing for the time that such estimate shall be furnished, providing for the settling out of the estimated receipts and expenditures, providing for the classification of expenditures and for priority of payment, giving to the County Court power to review such estimates, requiring the filing of such estimates with certain officers, providing certain penalties for the violation of the provisions of this act and repealing all laws in conflict herewith".

The above mentioned section of the Constitution provides in part that:

"No bill ***** shall contain more than one subject, which shall be clearly expressed in its title".

The object of the quoted provision of the organic law was to make the title to the bill express the subject of the act in such terms that members of the General Assembly and the people, upon reading the title, would not be left in doubt as to what matter is treated in the body of the bill.

State ex rel v. Becker, 47 S. W. (2nd) 781, 782 (and cases cited).

Under such constitutional provision a bill cannot treat of more than one subject. The section of the Constitution is entitled to be liberally construed.

State ex rel v. Becker, 47 S. W. (2nd) 781, 783.

There does not appear to be any ambiguity in the title to Senate Bill Number 154 hence the same is not up for construction.

Sections 1 to 8 both inclusive, of the bill, deal with counties having a population of 50,000 inhabitants or less, according to the last Federal decennial census. So far as those eight sections are concerned the matter of preparing a budget is left to the county court and the title to the act seems to indicate clearly enough what might be expected to be found in such eight sections of the bill.

Sections 9 to 20 both inclusive, deal with the preparation of an annual budget in counties having a population of more than 50,000 inhabitants, according to the last Federal decennial census.

Section 11 on page 12 of the bill provides that the county court shall have power to fix all salaries of employes, other than those of elective officers, except that no salary for any position shall be fixed at a rate

above that fixed by law for such position.

Section 17 of the bill further attempts to authorize the county court to borrow money in anticipation of the collection of taxes for the current fiscal year.

If the matter of fixing salaries by the county court and the matter of borrowing money by the county court are germane to the main subject of the act, then it is not necessary to mention such items in the title; on the other hand if the fixing of such salaries or the borrowing of such money are not germane to the general subject of the act that is, county budget, that part of the bill would be unconstitutional and inoperative.

Discussing the motor vehicle law, *State ex rel v. Becker*, and on the question of whether the provisions that the prison board should manufacture license plates and badges were germane to the motor vehicle act, the Supreme Court at page 783 of the opinion said:

"As stated by relators, "motor vehicles" form the groundwork of the act. Of course, all matters germane to this subject may be incorporated in the act. But the provision for the manufacture of plates and badges by convicts is not germane to the subject "motor vehicles". It has no natural connection with said subject, and there is no word in this title tending to even cause a suspicion that hidden away in one of the thirty-two sections of the bill are provisions providing for the manufacture of plates and badges by convicts. No member of the Legislature or the public could have been notified by this title, that the bill dealt with the employment of convicts. For the reasons stated, the provisions are unconstitutional and invalid".

So as to Senate Bill Number 154 we fail to see any natural connection between the wisdom of or the detail in carrying out a county budget law and the fixing of salaries of the county employes by the county court, and particularly the borrowing of money by the county court.

The power to borrow money by a county court is such a radical departure from the practice and the law in the past in this state, that the attention of the members of the Legislature should have been challenged when such a bill was up for passage.

Vice v. Kirksville, 280 Mo. 248, 357, 358.

The term budget is defined by Webster as follows:

"The annual financial statement which the British Chancellor of the Exchequer submits in behalf of the ministers to the House of Commons for approval. It comprehends a general view of the finances of the country, with the proposed financial measures for the ensuing year. Also, the financial condition shown by such a statement, or the measures proposed in it. Sometimes, a similar statement in other countries or of a quasi-public body".

From this definition of "budget" we see no connection between that and the fixing of salaries by the county court or empowering them to borrow money.

We are of the opinion that neither the quoted part of Section 11 with reference to fixing of salaries of employes by the county court, or that part of Section 17 attempting to authorize the county court to borrow money, are expressed in the title to Senate Bill Number 154 nor are either germane to the subject of the act.

We would call attention to another thing in connection with this bill. Section 36 of Article VI of the Constitution of this state provides:

"In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. The court shall consist of one or more judges, not exceeding three, of whom the probate judge may be one, as may be provided by law."

Honorable Guy B. Park

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By virtue of the foregoing provision of the Constitution county courts of this state have the sole management, control and jurisdiction of the property and financial interests of the respective counties and have original and exclusive jurisdiction to transact all of the business of such county.

State ex rel Buckner v. McElroy, 309 Mo. 595, 608.

In so far as Sections 9 to 20 both inclusive, of the bill may seek to oust the county court of any jurisdiction to transact all of the business in the county, then such parts of the act in that respect would be of no effect.

It is well settled law in this state that a part of an Act may be declared unconstitutional and the remainder of the Act will take effect so long as the substance of the act is not destroyed in holding a part thereof unconstitutional.

State ex rel v. Becker, supra, pg. 782 (cases cited),

Mayes v. United Garment Workers, 320 Mo. 10, 19.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

Attorney General.

GL:LC