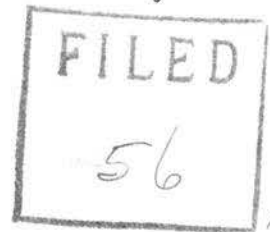


COUNTY REVENUE - County court cannot issue warrants in excess of the anticipated revenue of any one year under Art. 10, Sec. 12, Mo. Const., but may transfer unused or surplus funds from one department to another.

March 18, 1933.



Mr. Howard R. Maness
Prosecuting Attorney
Ripley County
Doniphan, Missouri

Dear Sir:

Regarding your inquiry of February 22nd, 1933, wherein you ask,

"Does the County Court have authority to issue additional warrants on the contingent fund even though they are in excess of the amount appropriated for that purpose when they are not in excess of the total expected revenue?"

Preceding the above paragraph, you state,

"The County Court has already issued warrants in excess of the amount of funds appropriated for the contingent fund of the county. However, the warrants issued are not in excess of the total expected revenue for the year."

The Constitution, Art. X, Sec. 12, says,

"No county,**** shall be allowed to become indebted in any manner for any purpose to an amount exceeding in any year the income and revenue provided for such year *****"

Section 12162 R. S. Mo. 1929, says,

"The county court shall have power to audit, adjust and settle all accounts to which the county shall be a party; to order the payment out of the county treasury of any sum of money found due by the county on such accounts;*****"

Section 12167, R. S. No. 1929, says,

"Whenever there is a balance in any county treasury in this state to the credit of any special fund, which is no longer ^{needed} for the purpose for which it was raised, the county court may, by order of record, direct that said balance be transferred to the credit of the general revenue fund of the county, or to such other fund as may, in their judgment, be in need of such balance."

Section 12168, R. S. No. 1929, states that,

"Nothing in the preceding section shall be construed to authorize any county court to transfer or consolidate any funds not otherwise provided for by law, excepting balances of funds of which the objects of their creation are and have been fully satisfied."

Under the provisions of Section 12167, R. S. No. 1929, the county court can transfer unused balances, where it is done judiciously, to any funds in their judgment needing same.

The Supreme Court has said,

"We are further of the opinion that when all warrants and debts properly chargeable to a fund in any one year are paid and provided for, the residue of such fund is a "SURPLUS" *****"

within the purview of the foregoing, or what we will call the "transfer section", giving the county court large discretionary powers.

Decker v. Diemer, 229 No. 298 l. c. 336.

"While the county court may in any one year draw warrants, after the revenue has been provided and the taxes levied within the scope of the levy and income for such year, (yet) it is too plain for argument that the Constitution forbids the anticipation of the revenues of any subsequent years; *****"

Trask v. Livingston, 210 No. 582 l. c. 600.

The county court can also use the left-over funds from preceding years, but they cannot under any circumstances anticipate and use the funds of subsequent years.

Going back to your question,

"Does the County Court have authority to issue additional warrants on the contingent fund even though they are in excess of the amount appropriated for that purpose when they are not in excess of the total expected revenue?"

in answer to same will say, they must keep in mind and comply with the provisions of the section hereinabove referred to, and, unless they know the funds that can be transferred under the provisions of Section 12167, R. S. No. 1929, can take care of these warrants, they should not issue additional warrants after the money in that fund is exhausted, unless, as stated before, they are sure that out of some of the funds received under Article X, Section 12, No. Const., can be transferred to the contingent fund.

Yours very truly,



GEO. B. STROTHER
Assistant Attorney-General.

APPROVED: _____

ROY McKITTRICK
Attorney-General.

GHS:EG