

COUNTIES: Under Section 18184a, Laws of Missouri 1933,  
COUNTY BUDGET LAW: page 358, County Court may not issue warrants  
PLEDGING OF WARRANTS: -now or in the future pay back indebtedness  
and pool and pledge them under said Section;  
the Section only applies to warrants already  
issued and outstanding; such construction com-  
pelled by provisions of County Budget Act.

11-23

November 17, 1933.

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Judge C. E. Murfin,  
Hartshorn, Missouri.

Dear Sir:

We are acknowledging receipt of your letter in which you  
inquire as follows:

"I am writing you in regard to Section 18184a,  
Laws of Missouri, 1933.

Does this Section give the County Court authority  
to issue warrants to pay back indebtedness and sell  
those warrants to some corporation or individual  
and start a sinking fund to take up the warrants  
in future years as money comes into the treasury  
for that purpose?"

Section 18184a, Laws of Missouri 1933, page 358, provides  
as follows:

"County warrants issued under the authority of  
Article 8, Chapter 85, R. S. Mo. 1929, issued to  
pay any legal indebtedness of a county may be  
pooled by the holders thereof and assigned to such  
county and be pledged by the county court to any  
corporation, commission or agency created or authorized  
by Congress or the State of Missouri to accept a pledge  
of such warrants and the county court is authorized to  
pledge the warrants of any county issued under this  
article in a manner to conform to the requirements,  
rules and/or regulations of any such corporation,  
commission or agency. Upon a pledge of any such  
warrants as by this act authorized, funds available  
or to be available shall be segregated and set apart  
for the redemption of such warrants and interest thereon  
from the terms of such pledge in the same manner as if  
said warrants had been sold, and the lien of such  
pledged warrants and interest thereon shall be enforced  
in the same manner as provided in this article for  
warrants sold. Funds derived from a pledge of any such  
warrants shall be deposited, accounted for and paid to  
parties so pooling them in the same manner as if such  
warrants had been sold or as may be provided by the  
requirements, rules and/or regulations of the corporation,  
commission or agency accepting a pledge of such warrants  
and advancing funds thereon."

The above section was passed by the Legislature in 1933 and contained an emergency clause which made it become effective as soon as approved by the Governor. It was approved by the Governor on May 9, 1933. At the same session of the Legislature there was passed what is known as the County Budget Law, found in Laws of Missouri 1933, pages 340-351. The County Budget Law did not go into effect until July 24, 1933. Both were passed at the same session of the Legislature and the County Budget Law, being of later enactment than the County Warrant Act, must be deemed to have modified or repealed the County Warrant Act to such an extent as they are irreconcilably in conflict.

In State ex rel. v. Crawford, 283 S. W. 341, 343, the court says:

"The general language referred to cannot be construed to destroy specific contrary provisions in the later act, nor will the fact that the two acts are passed at the same session prevent the later from repealing and modifying the former if they are in irreconcilable conflict. When two acts in pari materia are passed at the same session, they are to be construed so that both can stand, if reasonable construction will permit. Nevertheless, if there is irreconcilable repugnancy, the later act prevails. (Citations omitted). Further, a special act is not to be held repealed by one of general nature, even of later enactment, in the absence of negative words, or unless an irreconcilable inconsistency is necessarily raised."

A review of these two acts will disclose that there is an irreconcilable inconsistency. We shall not attempt to quote the entire County Budget Act, but shall point out such provisions therein as seem to us to conflict with Section 12184a. Section 1 of the Act, among other things, provides:

"\* \* \*The County Court shall classify proposed expenditures according to the classification herein provided and priority of payment shall be adequately provided according to the said classification and such priority shall be sacredly preserved."

Section 2 of the Act provides as follows:

"The court shall classify proposed expenditures in the following order:

Class 1: The County Court shall set aside and apportion a sufficient sum to care for insane pauper patients in state hospitals. Class 1 shall be the first obligation against the county and shall have priority of payment over all other classes.

Class 2: Next the county court shall set aside a sum sufficient to pay the cost of elections and the cost of holding circuit court in the county where such

expense is made chargeable by law against the county except where such expense is provided for in some other classification by this act. This shall constitute the second obligation of the county and all proper claims coming under this class shall have priority of payment over all except class 1.

In estimating the amount required in class 2 the county court shall set aside and apportion in the budget a sum not less for even years than the sum actually expended in the last even numbered year and for odd years an amount not less than the amount that was actually expended during the last preceding odd numbered year.

Class 3: The county court shall next set aside and apportion the amount required, if any, for the upkeep, repair and replacement of bridges on other than state highways (and not in any special road district) which shall constitute the third obligation of the county.

Class 4: The county court shall next set aside the amount required to pay the salaries of all county officers where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. Only supplies for current office use and of an expendible nature shall be included in this class. Furniture, office machines and equipment of whatever kind shall be listed under class six.

Class 5: The county court shall next set aside a fund for the contingent and emergency expense of the county, which shall in no case be more than one-fifth of the anticipated revenue. From this class the county court may pay contingent and incidental expenses and expenses of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service, (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes.

Class 6: 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 6."

Class 6 of Section 5 of the Act provides as follows:

"Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes

have been provided for. No warrant may be issued for any expense in class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six. No expense shall be allowed under class six if any warrant drawn will go to protest. Provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of such prior funds. Nor may any warrant be drawn or any obligation be incurred in class six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

Section 14, among other things, provides:

"Any cash surplus at the end of any fiscal year shall be carried forward and merged with the revenues of the succeeding year. Payment of any legal unpaid obligations of any prior year, however, shall be a first charge in the budget against the revenues of the budget year; provided that any deficit existing at the end of the year preceding that in which this act takes effect may be paid over a term of years, or in such other manner as the county court may determine."

Section 17 of the Act provides as follows:

"The county court may borrow money in anticipation of the collection of taxes for the current fiscal year. The amount of such loans shall at no time exceed seventy-five per cent of the estimated collectible revenues for the year yet uncollected, and shall be paid out of the revenues for the year in which made. The county court shall determine the amount and terms of such loans."

Section 20, among other things, provides:

"The accounting officer shall be personally liable and liable on his bond for the amount of any obligation incurred by his erroneous certification as to the sufficiency of an appropriation or of a cash balance, or for any warrant drawn when there is not a sufficient amount unencumbered in the appropriation or a sufficient unencumbered cash balance in the fund to pay the same, or for the payment of any amount not legally owing by the county."

Under the County Budget Act it is apparent that the purpose of the Legislature was to put the county on a balanced cash basis. The Act in Section 2 provides how proposed expenditures should

be classified and their order of payment. The expenses of the county are to be paid according to the way they are classified and in no other way. The county court is given authority to borrow money up to seventy-five per cent of the estimated collectible revenues, and any warrant is forbidden to be drawn when there is not a sufficient amount unencumbered in the appropriation, or a sufficient unencumbered cash balance in the fund to pay it. Under Section 13184a, the warrants issued under Article 8, Chapter 85, to pay any legal indebtedness of the county may be pooled by the holders thereof and assigned to the county and thereby pledged by the county to some agency authorized to accept the pledge, and the funds derived from the pledge are to be turned over to the persons who own the warrants and assigned them to the county. The section further provides; that upon any pledge funds available or to be available shall be segregated and set apart for the specific purpose of redeeming such warrants.

In answer to your inquiry these two acts, which more or less over-lap, must be reconciled and must be construed as to give effect to both, if possible. Section 12184a cannot be construed to give the county court the right to issue warrants when there are no unencumbered funds out of which to pay them. If the act be construed as giving the county court the right now and in the future to issue warrants when there is not a sufficient unencumbered amount in the appropriation, or cash balance in the fund to pay them, then it appears to us that this act is in direct conflict with the County Budget Law. The County Budget Law provides as to how the expenditures of the county shall be classified and how they shall be paid. In Section 2, class 6 above quoted, it provides that all the five classes above shall be taken care of before any expenditure is made under class 6, and that outstanding warrants shall be paid before any expenditure is authorized under class 6. In other words, under Section 2, outstanding warrants come between classes 5 and 6. If, under Section 12184a, funds to become available for the redemption of such warrants could be segregated and used only for that purpose, such policy would be in conflict with Section 2 of the Budget Act.

Section 12184a simply provides the method for the county to borrow money to take care of its outstanding warrants. Section 17 above provides that the county court may borrow money at no time to exceed seventy-five per cent of the estimated collectible revenues for the year yet uncollected. There again appears a conflict. Under Section 20 of the County Budget Law the drawing of a warrant when there is not sufficient cash balance in the fund to pay the same is prohibited. Such section is in conflict with Section 12184a as applied to warrants to be drawn now or in the future, because if there is a sufficient cash balance in the fund to pay the warrant then there would be no necessity of issuing warrants, pooling them and pledging them with any corporation to obtain funds with which to pay them. Viewing the two statutes as a whole we are convinced that Section 12184a cannot be construed as to give the county court authority now or in the future to issue warrants for past indebtedness in order that they may be pooled and pledged to some corporation authorized to accept such

pledge. In order to reconcile the two statutes we must adopt the conclusion that Section 12184a only applies to legal warrants which are outstanding at the time the Act became effective.

Legal warrants outstanding at the time the Act became effective were a claim against the county in the hands of individuals. The Act provides that they may be pooled, assigned to the county and pledged by the county to some corporation. This act of pledging on the part of the county does not increase the county indebtedness in any respect, but only changes the creditor of the county from the individuals who pooled them to the corporation which accepted the pledge. So far as the county is concerned, it is in the same relation to those outstanding warrants as if the individuals themselves had pooled the warrants and assigned them to some corporation and the corporation had presented them for payment so that interest would start. So far we deem there is no conflict between the two statutes as applied to already outstanding warrants. However, when those warrants are presented for payment we believe that they must be paid according to the provisions of the County Budget Law. Under Section 2 and Section 5 of the Act it is apparent that expenditures for the first five classes must be taken care of before outstanding warrants for prior years can be paid. Outstanding warrants for prior years must be paid before the expenditures authorized under class 6, and we conclude that such outstanding warrants for prior years are to be paid under the County Budget Act after the expenditures of class 5 have been met, and before any expenditure is made under class 6.

It is therefore the opinion of this Department that in view of the existence of the County Budget Law and Section 12184a dealing with county finance and county warrants that they both must be construed together in such a way as to give effect to both of them if possible; that under Section 12184a the county court would not now or in the future have any authority to issue warrants to pay back indebtedness for the purpose of having the warrants pooled and pledged to a corporation; that Section 12184a must be construed to apply only to legal outstanding warrants already issued, and that they may be pooled under the authority of that Section notwithstanding the County Budget Law, but that when such warrants are presented for payment they shall not be paid until the first five classes, as set out in Sections 2 and 5, shall have been paid; that the outstanding warrants for prior years shall be paid after the five classes have been paid, but before any payment is made under class 6.

Very truly yours,

  
Assistant Attorney General.

APPROVED:

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Attorney General.