

COUNTY BUDGET LAW: Expense of erecting shelves for law books in Prosecuting Attorney's library should be paid out of Class 5, Sec. 2; expense of purchasing chairs for circuit court room should be paid out of Class 2, Sec. 2.

November 14, 1934.

2-25



Mr. James P. Hawkins,
Attorney at Law,
Buffalo, Missouri.

Dear Sir:

This department is in receipt of your letter of October 16, 1934, making the following inquiries relative to the County Budget Act now in effect in Missouri:

"As the incoming prosecuting attorney of Dallas County, Missouri, I would like to have an immediate ruling on how to classify under the budget plan, a certain expenditure. The county court wishes to place in the office of the prosecuting attorney, which is the jail shelves to hold the law books of the county. These shelves are to be permanently annexed to the building and to become a part thereof. Of course, this county cannot issue any warrants under Class 6 and expect them to ever be paid.

Another problem that has been before the court is that of purchasing chairs for the circuit court room. We do not have any chairs for the jurors or for even the representing counsel. I would appreciate an early reply and ruling on this matter."

I

It is the opinion of this department that since Class 4, Laws of Mo. 1933, Sec. 2, page 341 contains the limitation, "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" - the expense of erecting shelves for the books of your library

could not be placed therein. Class 5 of Sec. 2 of the County Budget Law (Laws of Mo. 1933 p. 342) provides:

"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 expense 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."

Since you state that the shelves in question are to be permanently annexed to the building and are to become a part thereof, the same might be said to be repairs on public buildings, which it is possible might come within the terms of Class 5; therefore, we are of the opinion that the expense of the shelves in question, they being in the nature of repairs for the court house, could be termed "contingent and emergency expense of the county" and same may be paid out of Class 5.

II

With regard to your problem of purchasing chairs for the circuit court room, which is confronting your county court, we must determine whether or not the scope of Class 2, Sec. 2 of the County Budget Law (Laws of Mo. 1933, p. 341), which is as follows:

"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."

is broad enough to include the expense of purchasing the chairs in question. The clause "the cost of holding circuit court in the county where such expense is made chargeable by law against the

county" is further explained under Section 5 of said Act "Classes of Expenditures", in Class 3 thereof, which provides:

"Expense of conducting circuit court and election, not to include the salary of any officer or employee on a yearly salary, nor deputy or assistant of any kind whatever though on irregular time, such shall be estimated for under class four. Class 3 shall include pay of jurors, witnesses if properly paid by the county, and other incidental court costs, pay of judges and clerks of elections and all other expenses of elections chargeable against the county. This estimate shall not be less than last preceding even year in even years and last preceding odd year in odd numbered years."

The phrase "and other incidental court costs", we think, refers solely to costs arising through litigation or court action and is not broad enough in its scope to include physical equipment for the court room, especially when we consider the sentence in class 4: "furniture, office machines and equipment of whatever kind shall be listed under Class 6."

CONCLUSION

In view of the above sentence under Class 4, it is the opinion of this department that the chairs in question cannot be purchased out of the funds of any other class than Class 6, and in spite of the fact that, as you mention, the funds in Class 6 are depleted, it will be necessary, if the chairs are purchased, to take the cost thereof from the funds in Class 6.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY MCKITTRICK,
Attorney General