

COUNTY BUDGET LAW: County court cannot reduce the salary of any officer which is fixed by statute in order to balance the budget; can reduce the salary of appointive officers.

March 8, 1934. 3-13



Hon. C.E. Murfin,
County Judge,
Texas County,
Hartshorn, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of some time ago relating to the County Budget Law. Your letter is as follows:

"I'm writing you in regard to Sec. 3, page 342, Laws of Missouri 1933, which says: 'If for any year there should not be sufficient funds for the Co. Court to pay all the approved estimates under Class 4, after having provided for the prior classes, the Co. Court shall apportion and appropriate to each office the available funds on hand and anticipated in the proportion that the approved estimate of each office bears to the total approved estimate for Class 4.'

Also, Sec. 8 says the court may alter or change any estimate as public interest may require and to balance the budget. The question is, does the two sections in question give the Co. court a right to change the salary of the county officers and balance the budget?

If the county court cannot change the salary of the officers it will be impossible for the county court to balance the budget in Texas County by levying and staying in the bound of the Constitution."

Sec. 3, page 342, Laws of Missouri 1933, mentioned in your letter, provides as follows:

"It is hereby made the express duty of every officer claiming any payment for salary or supplies to furnish to the clerk of the county court, on or before the fifteenth day of January of each year an itemized statement of the estimated amount required for the payment of all salaries or any other expense for personal service of whatever kind during the current year and the section or sections of law under which he claims his office is entitled to the amount requested, also, he shall submit an itemized statement of the supplies he will require for his office, separating those which are payable under class 4 and class 6. Officers who are paid in whole or in part other than out of the ordinary revenue, whether paid by fees or otherwise, shall submit an estimate for supplies in the same manner as officers who are paid a salary out of ordinary revenue. No officer shall receive any salary or allowance for supplies until all the information required by this section shall have been furnished. The clerk of the county court shall prepare and file an estimate for his office; also for the expense of the judges of the county court. If for any year there should not be sufficient funds for the county court to pay all the approved estimates under class 4, after having provided for the prior classes, the county court shall apportion and appropriate to each office the available funds on hand and anticipated, in the proportion that the approved estimate of each office bears to the total approved estimate for class 4."

Section 8 of the County Budget Law, page 345, Laws of Mo. 1933 provides as follows:

"It is hereby made the first duty of the county court at its regular February term to go over the estimates and revise and amend the same in such way as to promote efficiency and economy in county government. The court may alter or change any estimate as public interest may require and to balance the budget, first giving the person preparing supporting data an opportunity to be heard but the county

shall have no power to reduce the amounts required to be set aside for classes 1 and 3 below that provided for herein. After the county court shall have revised the estimate it shall be the duty of the clerk of said court forthwith to enter such revised estimate on the record of the said court and the court shall forthwith enter thereon its approval. The county clerk shall within five days after the date of approval of such budget estimate, file a certified copy thereof with the county treasurer, taking his receipt therefor, and he shall also forward a certified copy thereof to the state auditor by registered mail. The county treasurer shall not pay nor enter protest on any warrant for the current year until such budget estimate shall have been so filed. (This shall not apply to warrants lawfully issued for accounts due for prior year, lawfully payable out of funds for prior years on hand). If any county treasurer shall pay or enter for protest any warrant before the budget estimate shall have been filed, as by this act provided, he shall be liable on his official bond for such act. Immediately upon receipt of the estimated budget the state auditor shall send to the county clerk his receipt therefor by registered mail.

Any order of the county court of any county authorizing and/or directing the issuance of any warrant contrary to any provision of this act shall be void and of no binding force or effect; and any county clerk, county treasurer, or other officer, participating in the issuance or payment of any such warrant shall be liable therefor upon his official bond."

CONCLUSION

It is the opinion of this department that the county court cannot reduce the salaries of the county officers which are fixed by the statutes. As to the salaries of appointive officers wherein the

March 8, 1934.

appointment is made by the county court and the amount of the salary is discretionary with the court, it is the opinion of this department that the county court has the authority to reduce such salaries.

Respectfully submitted,

OWN:AH

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY McKITTRICK,
Attorney General.