

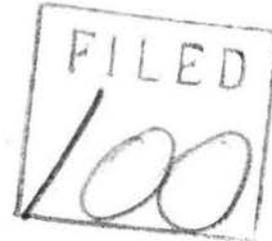
COUNTY BUDGET LAW: Balance in any of five classes entitled to priority may be transferred to Class 5 on certain conditions;

Boarding of prisoners should be in Class 4;

Receipts for expenses paid by relatives of patients in Hospital No. 2 should be taken into consideration in estimating receipts under Sec. 1.

November 10, 1934.

Hon. J.A. Yadon,  
Clerk of County Court,  
Albany, Missouri.



Dear Sir:

This department is in receipt of your letter of some time ago, also your supplemental letter, in which you make the following inquiries:

"In No. 5 the Contingent fund, so many things have been thrown into this fund, and the law does not permit us to use more than 1/5 of the anticipated revenue. Can we transfer from any of the other funds into this fund, and if this is impossible, are there any possible steps that can be taken to relieve this situation, as we have only about enough to run us two more months at the rate we have been going during the past eight months?

The first six months of 1934 we paid the board of prisoners out of No. 5 contingent fund. Then we got your opinion that it should be paid out of No. 4 or Salary Fund. Now, can we transfer the same amount of money from the salary fund to the contingent fund that we used to pay their board the first half of this year?

We have about thirty-two patients at St. Joseph Hospital No. 2 that the county pays for and out of that number there are six of them that their relatives pay to the county all of the expense the county has paid for them. That will make \$1200 or \$1500 a year. Will this amount be counted in our budget, or will we have that much more to write warrants against? A good deal of the expense of the up-keep of our County Home is for feed for cattle, hogs and poultry. When this stock is sold, can we deduct the amount we get in cash from our Budget, or No. 5, and write warrants for that much more? "

Class 5, Sec. 2 of the County Budget Law, Laws of Mo. 1933, page 342 is as follows:

"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."

We shall answer your questions in the order presented.

I

We are of the opinion that if there be any balance of funds in Class 6, which is as follows: (Laws 1933, P. 342)

"After having provided for the five classes of expenses heretofore specified, the county court may extend 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",

same may be transferred to Class 5.

Class 6, Section 5, of the County Budget Law, Laws of Mo. 1933, page 344 provides:

"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."

The New County Budget Law contains the phrase (Sec. 1, page 341) "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." We are, however, of the opinion that if any balance now remains in any of the five classes which are entitled to priority, the balance, or surplus, may be transferred to Class 5, this being upon the condition that the County Court has over-estimated the amount needed for the various classes and that it is obvious there will be a surplus at the close of the year, or when the new budget is made and that the priority of any of the classes will in no wise be jeopardized. However, we recommend this course purely at the risk of the County Court, as there is no provision made for transferring balances of funds unless same is done in compliance with Section 12167, R.S. Mo. 1929, which is as follows :

"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."

We know of no recourse for you as to the deficiency in Class 5, as set forth in your letter, unless it would be Section 8, Laws of Mo. 1933, page 345, which provides:

"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 court 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 estimates 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). \*\*\*\*\*"

## II

Your question relating to the boarding of prisoners has finally been decided by this department. It is our opinion that this expense should be placed under Class 4; however, we call your attention to the fact that the new Budget Law does not provide for such a contingency. It is therefore our opinion that if funds have been wrongfully or erroneously paid out of one class, whereas, they should have been paid out of another class, it would not be illegal to replace the amount wrongfully or erroneously paid out of such fund.

## III

As to your third question, relating to the thirty patients in Hospital No. 2, the expenses of six of them being borne by relatives, it is the opinion of this department that the amount paid, or anticipated to be paid by the relatives,

should be taken into account in the yearly budget. Section 1, page 340, Laws of Mo. 1933, provides:

"This act may be cited and quoted as the county budget law. All counties now or hereafter having a population of 50,000 inhabitants or less, according to the last federal decennial census, shall be governed by Sections 1 to 8 inclusive, of this Act. Whenever the term revenue is used in this act it shall be understood and taken to mean the ordinary or general revenue to be used for the current expenses of the county as is provided in this act regardless of the source from which derived. The county courts of the several counties of this state are hereby authorized, empowered and directed and it shall be their duty, at the regular February term of said court in every year, to prepare and enter of record and to file with the county treasurer and the state auditor a budget of estimated receipts and expenditures for the year beginning January 1, and ending December 31.\*\*\*\*\*"

By the terms of the above section, it is the duty of the County Court to prepare an estimate, including receipts of the amounts paid by the relatives of the patients and it is the opinion of this department that the same should be taken into consideration when estimating the amount of the receipts under Section 1.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK,  
Attorney General