

COUNTY BUDGET ACT: Budget for County Extension Agent's office refused in final make up by county court and later desired to be allowed may be taken care of by transferring surplus in any class to succeeding class until it eventually get to Class 5 and paid therefrom.

March 7, 1935. 3-14



Hon. Elvin S. Douglas,  
Prosecuting Attorney,  
Polk County,  
Bolivar, Missouri.

Dear Sir:

This department is in receipt of your letter of February 8 wherein you present certain facts and request an opinion from this department regarding the same, to-wit:

"We have had the following question arise in our county: In due time the County Agent, Mr. Rubottom submitted to the county court his estimate of expenses for his office which have been paid in the past by the county, which would not exceed \$420.00. At or before the February term of court the county court went over estimates submitted by the respective officers of the county, and revised some of them, etc. as the county budget law provides, and then finally approved the budget as it was made up by the court, entered its approval of record, filed copies in the Treasurer's office and the State Auditor's office as the Budget Law requires. Warrants have since been issued and paid.

However, in its final makeup the Court refused to allow any funds in the budget for the county extension agent's office, and his estimate was not included in the budget.

The court has since decided that they would like to allow some sum not exceeding \$420.00 for that office. As made up, estimated expenditures in the budget lack \$2,000.00 of being as much as the county's

net anticipated revenue. In other words, this county's net anticipated revenue for 1935 is \$2,000.00 more than estimated expenditures for that time.

I have advised the court that since they have finally approved the budget, filed it as required by law, and issued warrants, that it is now too late for them to amend the budget by adding new items of estimated expenditures.

I would appreciate the opinion of your department on this matter. Our county has a population of less than 50,000."

It appears from your letter that the officers, on or before the 15th day of January, 1935 performed their duties under the County Budget Act as contained in Section 3 thereof; likewise, the County Clerk performed his duties under Section 4. We assume that the county court met at the regular February term and carried out the provisions of Section 8, (Laws of Mo. 1933, p. 345), which is 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 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 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."

If the county court had not approved the budget estimate and the same had not been filed in the office of the county treasurer and a copy forwarded to the State Auditor, we would be of the opinion that the budget could yet be amended and revised as we assume the county court has adjourned meetings or terms from one regular term to the next.

The \$420.00 which you mention may be paid out of any funds in Class 6, as this class is very broad and elastic in its terms; however, we conclude that Polk County is probably in the same condition as most of the other counties in the state, i.e., there are no funds in Class 6. If the \$420.00 in question is allotted to the County Extension Agent's Office for the purpose of office expense, it is our opinion that since the budget lacks \$2,000.00 of being as much as the net anticipated revenue, said sum might be paid out of Class 5.

It is evident that the aim of the Legislature in passing the County Budget Act was to promote efficiency and economy in county government. The statutes covering the County Budget Act are more or less directory--not mandatory; however, you will note in Section 8, supra, the provision "any order of the county court \*\*\* directing the issuance of any warrant contrary to any provision of this act shall be void \*\*\* 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."

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In Section 1 of the County Budget Act (Laws of Mo. 1933, page 340) it is made the duty of the county court to classify expenditures and to sacredly preserve the priorities, as contained in the classes. This, we consider to be the outstanding feature of the County Budget Act. Therefore, we draw this inference, and offer the following as a suggestion, believing that the same will not violate the spirit of the Act:

If the five classes enumerated in the Budget Act have been adequately provided for and if at any time it can be ascertained that any one of the classes will have a surplus at the close of the fiscal year, that surplus may be transferred to any succeeding class and may eventually be transferred to Classes 5 or 6 and thereby become funds which may be used in taking care of the \$420.00 mentioned in your letter.

We offer this method merely as a possibility with the injunction that the priorities of the classes be sacredly preserved before this method be used. This solution would appear to be practical and probably due to the fact, that as you state in your letter, the anticipated revenue is \$2,000 more than the estimated expenditures for the year.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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ROY MCKITTRICK,  
Attorney General

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