

COUNTY BUDGET ACT: Rock crusher and tractor not included in proposed expenditures for year cannot be purchased from funds in Class 6.

6-14

June 14, 1935.



Hon. A. D. Hewitt,
Prosecuting Attorney,
DeKalb County,
Maysville, Missouri.

Dear Sir:

This department is in receipt of your letter of May 25 requesting an opinion on the following question which has arisen in your county:

"Our County Court and a few of our citizens are anxious to buy a rock crusher to be used in the construction of roads in our county. The crusher and tractor will cost between \$6500 and \$7000.

"The County Court in making up their budget for the present year did not take into consideration the purchase of this crusher and tractor, and did not make any allowance for this amount in any of the classes in their budget.

"Under Class Six we feel sure that there will not be any cash balance to make this purchase. Under class five there will not be any balance left, or perhaps a very small balance of the one-fifth anticipated revenue. Under classes one, two, three and four, we believe that this purchase of the tractor and crusher could not be made under any one of these latter classes.

"The County Court, however, would like to have your opinion on this matter, and so would the writer. * * * *"

Under the terms of Sec. 1 of the County Budget Act (Laws of Mo. 1933, page 341) it is the duty of the county court at the regular February Term thereof to prepare and enter of record and file with the county treasurer and state Auditor a budget of estimated receipts and expenditures for the year beginning January 1 and ending December 31.

Section 2 of the Act classifies the expenditures into six separate classes; the first four of said classes are definite in their terms and may be at once eliminated in the matter of the possibility of buying the proposed crusher and tractor from the funds therein. Class 5 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."

Under Section 5 of the Act denominated "Classes of Expenditures", Class 5 is as follows:

"Contingent and emergency expense, not to exceed one-fifth of the total estimated revenue to be received. Purposes for which the court proposes the funds in this class shall be used shall be shown."

This class, being general in its terms, it is readily noted that while the section states that the purposes for which the funds are to be expended shall be shown, the amount of each purpose or each itemized expenditure cannot be definitely determined. However, you state in your letter that the proposed cost of the crusher and tractor, to-wit, between \$6500 and \$7,000, was not included in the list of proposed expenditures. You also state that in all probability no balance will remain in Class 5.

It was the intention of the Legislature in passing the County Budget Act to promote efficiency and economy in county government. The county court may alter or change the budget

before filing, but after same is filed and approved, there is no provision for any change or alteration therein; hence, under Sec. 1 of the County Budget Act it is the duty of the county court to classify the expenditures and to sacredly preserve the priority of payment of the classes.

CONCLUSION

It is the opinion of this department that the rock crusher and tractor costing between \$6500 and \$7,000 cannot be purchased from the funds in Class 5 for the reason (1) that said item was not included in the list of proposed expenditures presented to the county court at the regular February Term for that year; and (2) that the proposed expenditures, being large, if the funds of Class 5 were permitted to be used therefor, might jeopardize the priority of payments as contained in the four preceding classes.

Class 6 contains the provision "after having provided for the five classes of expenses heretofore specified, the county court may expend any balance for any lawful purpose". This appears to be the only class from which it might be possible to use funds to purchase the crusher and tractor in question; however, the funds in this class could be used only in the event that said payment would not jeopardize the priority of payment of the other five classes and there be no outstanding warrants constituting legal obligations.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

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