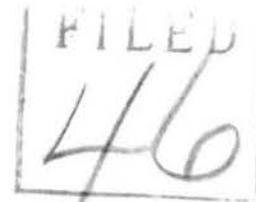


COUNTY BUDGET LAW: Obligations of Class 5 may be carried over to following year and paid out of revenue from delinquent taxes if there are no funds in Class 6 and the funds in class 5 have been exhausted.

1-14
January 11, 1935.



Hon. R.L. Jones,
Clerk of County Court,
New Madrid, Missouri.

Dear Sir:

This department is in receipt of your letter of recent date relating to the new County Budget Law, your letter being as follows:

"This department does not fully understand the Budget Law as it applies to the paragraph below. Our total estimated net receipts for the current year is \$83,155.42, and our budget of anticipated expenditures for the current year is \$80,292.56. In making up our budget we failed to allow a sum sufficient in making it up to pay all the State Institutions, as we had more inmates committed than we originally thought we would, and we realize that this is our first obligation and will no doubt take up the remaining \$2,000.00, the difference between our estimated receipts (based on 90% collections) and our expenditures.

Now we are confronted with this situation. We have some three or four offices that have bills on file to pay which are in excess of the amount allotted them in the budget, as approved by the Court. Practically all the offices with these exceptions will just about use up the amounts allotted them. We have not, of course, issued any warrants for these bills in excess of the amounts originally allotted them, however they are on file and the Court is desirous of knowing just what disposition is to be made of them. Practically all of these bills are in class five, for the Sheriff's coal, light, water bills, and for the

support of paupers on the County Farm.

We are of the opinion that if these bills are carried over and paid out of next year's budget that it will defeat the purpose of the budget, that is, that they will continue this practice and at the end of each year we will have numerous bills on file as has been the practice heretofore. Some contend that these bills will fall in class six for the year 1935, while others contend that the officers are personally responsible for any bills made over and above their allotment in the budget."

You are correct in your statement that it is necessary for you to use any funds now on hand or in any other classes to take care of the obligations of Class 1, as this is given priority in the Act. Section 1, Laws of Missouri 1933, page 341 contains the sentence, "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."

As to the second question presented in your letter, i.e., as to the payment of expenses incurred by several of the officers in excess of the amount allotted to them in the budget, it presents a more difficult situation. You do not state the nature of the expenses contracted by these various officers in excess of the amount stated in the estimates of the needs of their offices; however, we assume that the same will come within Class 4, which is as follows:

"The county court shall next set aside the amount required to pay the salaries of all county officers where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. 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,"

and which does not include furniture, office machines and other equipment. If the excess consists of both character of supplies, the latter mentioned would fall in Class 6.

Section 3, page 342, Laws of Mo. 1933 is 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 4 provides in part as follows:

"****Less all known lawful obligations against the county December 31, last, and for which warrants were not drawn at that date (itemized list of these obligations must be attached to the estimate.)

Total unpaid obligations of the county on January 1st of current year. (This shall include unpaid warrants and out-

standing bills for which warrants may issue). *****

We are quoting the two above paragraphs to show that when a deficiency occurs in the financial affairs of a county for a fiscal year, the same is to be taken into consideration by the county clerk with respect to his duties.

None of the sections, from 1 to 9 inclusive, which are applicable to counties of the population of your county, contain any provision dealing with your question. We must, therefore, draw our conclusions from the whole purpose of the Act. The purpose of the Act primarily was to create five classes, each succeeding class having a prior lien on the funds of the county. In order to keep the financial structure of the county in a more efficient and economical manner, and to repeal certain sections of the old law which were in conflict therewith, the new Budget Act was enacted; otherwise, the business of the county, along the same general lines, is as in the past.

The county has always been liable for the supplies and expenses incidental to a county office. We assume that the officers in question, when they made their original estimate, were honest and conscientious and that the bills and the supplies which were purchased in excess of their estimate were reasonable in price, necessary and incidental to their respective offices, and that the county would be liable for the same under the situation as it existed prior to the passage of the County Budget Law.

We realize that an officer, regardless of the fact that he may be careful and conscientious in preparing his estimate, cannot with absolute accuracy determine the exact amount he will need for supplies, etc. in his office for any fiscal year and it is our opinion that the Legislature did not intend that such excess should be borne by the officer himself, or that the amount should go unpaid.

CONCLUSION

Bearing in mind that it is the duty of the county clerk to list all unpaid obligations, as set forth in Section 4, supra, it is the opinion of this department that if no funds are available in Class 6 for the expenses referred to it will be necessary to carry the same over to the year 1935 and the obligations then be taken care of as the revenue from delinquent taxes comes into the hands of the county.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

ROY MCKITTRICK,