

of Class 1
COUNTY BUDGET LAW: expenses/incurred by county court in excess of
fund set aside may be paid out of Class 1 regardless of fact that they
are in excess of estimate as contemplated by the Budget Act.

January 24, 1935.



Hon. Homer Rinehart,
Prosecuting Attorney,
Howell County,
West Plains, Missouri.

Dear Sir;

On December 18 you made a request for an opinion from
this department, as follows:

"Under the budget law passed by the General
Assembly in the State of Missouri, 1933 as
appears on page 340 of the laws of the Session
Acts of the Laws of Missouri, 1933, the county
court is required to classify proposed expen-
ditures in six (6) classes.

Under Section 2 of said act the County court
is required to set aside and apportion a suf-
ficient sum to care for insane people in State
Hospitals, this expenditure being designated
as Class 1; and said act provides that Class 1
shall be the first obligation against the
county and shall have priority of payment of all
of the other classes. In said act the other
expenses of the county are divided into the
other classes and it provides that the court
shall set aside a sufficient sum to pay the
expenditure coming within said classes.

In Howell County, Missouri the warrants have
already been heretofore issued by the county
court to the amount to cover, excepting a few
dollars, all of the estimated revenue that would
be collected to pay accounts set aside by said
court in Class 1; however, some bills have been
filed against said class, for which there has
been no warrants issued. In other words the
County Court has failed to keep their expense
of the county in Class 1 within the sum set aside
by said court for this fund.

Under this budget law, I desire an opinion if in instances where the county court has incurred expenses in Class 1 in excess of the amount of the fund set aside by said court to take care of expense coming within this class; whether said expense incurred in excess of the fund set aside has priority over the payment of all other classes; and whether the county court is required to transfer sufficient money out of Class 2 or other classes to pay accounts chargeable against Class 1 which have been filed against the county after the date that all of the estimated revenue set aside by the county court for expenditures in Class 1 has been spent."

Your precise question has never heretofore been passed upon by this department. It would appear from your letter that the county officials have carried out their duties with regard to the County Budget Law, and yet there remains a deficit in Class 1.

We do not think the situation you outline is in any way clarified by Section 4, page 343, Laws of Mo. 1933, wherein we find these provisions: "***Less outstanding warrants for preceding years as follows: (list total by years). 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).***"

It is our opinion that the above quoted paragraph should be construed to mean funds remaining in certain classes but through inadvertence, neglect or inconvenience it was not possible to pay the same by December 31.

Under Section 8 of the County Budget Act, Laws of Mo. 1933, page 345, it is the duty of the court at the February Term to revise and amend, and alter or change any estimate as the public interest may require, but they have no power to reduce the amount of the estimate in Classes 1 and 3. We readily conclude that it would have the power to raise the estimate in those classes.

The purpose of the County Budget Act, as we construe the same, is to promote efficiency and economy in county government. We do not believe that the Legislature considered the county officers, whose duty it is to carry out the terms of the Budget Act, to be infallible in their judgment. We realize that it would be more miraculous than good judgment if all estimates were accurate to the last penny; however, as stated in your letter, the Legislature saw fit to classify the financial struc-

ture of the county into six classes, each class having a priority over the succeeding class. Section 1, Laws of Mo. 1933, page 431 contains the following provision: "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 conclude from this provision, regardless of the estimate made by the county court for the care of insane pauper patients in state hospitals, the same constitutes a first lien on the funds of the county and that the same must be paid by the county, regardless of the amount, in order that the priority may be sacredly preserved.

CONCLUSION

It is the opinion of this department that the bills in question should be paid regardless of the fact that by paying the same the gross amount will exceed the sums set aside and originally estimated by the county court, for the reason that Class 1, as stated above, constitutes a first lien on the funds of the county and the priority of the classes should be sacredly preserved. The amount of the excess bills, if any exists, in the subsequent classes, or the funds of the subsequent classes, may be used without a transfer of the same.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General

APPROVED:

ROY MCKITTRICK,
Attorney General