

COUNTY BUDGET ACT: Salary of Secretary of Farm Bureau Agent should be placed in Class 6.

4.26
April 16, 1935.



Hon. C. H. Robards,
Presiding Judge County Court,
Kennett, Missouri.

Dear Sir:

This department is in receipt of your letter of March 30, wherein you make the following inquiry and request an opinion regarding the same:

"Confirming our telephone message today, we have a budget problem here. In making our budget we placed the salary of the Secretary of the Farm Agent in Class 4. We have such a heavy load on Class 5 that there will not be sufficient funds there, as all our pauper expense and health unit expense come out of Class 5.

Our Treasurer refused to 'refuse' the warrant. Our warrants are protested, saying he thought it should be in Class 5.

Is there anything illegal in budgeting this salary in Class 4 so long as it does not take funds that would belong to any other claimant?"

Class 4 of the County Budget Act, referring to in your letter (Laws of Mo. 1933, p. 341) provides as follows:

"Class 4: 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."

Section 5 of the County Budget Act, (Laws of Mo. 1933, p. 344) under "Classes of Expenditures", states:

"Class 4: Pay or salaries of officers and office expense. List each office separately and the deputy hire separately.
* * * * "

Section 12616, R.S. Mo. 1929, which gives county courts the power to appropriate money, is as follows:

"For the purpose of promoting the public welfare by assisting in the general betterment of farm and home practices and conditions, the county court of any county is hereby authorized and empowered to appropriate out of the general funds of the county such sums as it may deem proper for the support of county farm organizations and to pay out such moneys under the condition hereinafter specified."

Section 12619, R.S. Mo. 1929 designates the use of the funds, and is as follows:

"For the purpose of carrying out the provisions of this article, all funds appropriated by any county court to a county farm bureau shall be used to pay the salaries and necessary expenses of men and women, either or both, trained in agriculture and home economics, respectively, to serve as county agricultural agents,

county home demonstration agents and county boys' and girls' club agents, and to provide such clerical assistance and office equipment as may be necessary to the effective conduct, through these agents, of such educational activities as are specifically authorized by state and federal legislation providing for cooperative extension work in agriculture and home economics as defined by the Smith-Lever Act of Congress."

Sections 12616 and 12619, supra, do not place a mandatory duty on the county court to make any appropriation of funds, but merely authorize and empower the county court to appropriate funds if it so desires. We cannot read into the sentence in Class 4 "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" that it shall include the salary of the Farm Agent or the Secretary to the Farm Agent. The amount, if appropriated for county farm organizations or county farm bureaus, under Sec. 12623, R.S. Mo. 1929 is for a period of not less than three years and appears to be in the nature of a lump sum. No part is designated for secretaries, stenographers, salaries or wages of any one.

As stated above, it is not mandatory upon the county court to appropriate in the first instance for a county farm bureau; we are therefore of the opinion that the county farm bureau may not be paid from the funds under Class 4.

Class 5 of the County Budget Act (Laws of Mo. 1933, p.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."

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The above class specifically mentions contingency and emergency expense of the county, and specifically excludes salaries, fees, wages or any other emoluments. The funds appropriated by the county court for the county farm bureau cannot be classified as contingent and emergency expense, for if funds are appropriated, the amount is definitely known--there is not an emergency; therefore, it cannot be said that they are contingent upon anything and we are of the opinion that the salary of the Secretary to the Farm Agent cannot be paid out of the funds in Class 5.

Class 6 is as follows: (Laws of Mo. 1933, p. 342)

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

Having heretofore decided that the appropriation for the County Farm Bureau cannot be paid out of the funds of the first five classes, it is the opinion of this department that the same should be paid from the funds in Class 6.

It was clearly the intention of the Legislature to provide for the first five classes, and after that has been done, under the provisions of Class 6, the county court may expend any balance for any lawful purpose.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED: