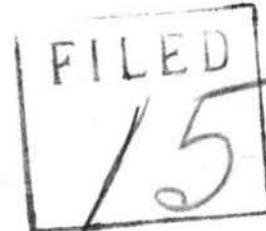


COUNTY FINANCIAL STATEMENT: State Auditor prepares forms to be printed and approves financial statement as to form only; it is duty of person designated to prepare financial statement to show that same is correct; if financial statement is not included in preparing the budget, it may be paid out of Classes 5 or 6 or out of an ascertainable surplus in any of the other classes, or out of delinquent taxes.

May 7, 1936.



Mr. L.E. Cass,
Clerk of County Court,
Webster County,
Marshfield, Missouri.

Dear Sir:

This department is in receipt of your letter of April 18 wherein you make the following inquiry:

" * * * I would like to have an opinion in regard to the financial statement. Does the State Auditor approve the financial statement as to form only? If so, upon whom does the responsibility rest if it isn't correct? In other words, is it the duty of the County Court to see that it is correct before they pay for the making and printing of said financial statement?

"If a statement is made up which is incorrect and a challenge has been filed before the court as to its incorrectness, can it be legally paid for until the agent or agents who made it prove that it is correct? Just what steps should be taken in a case like this?

"Also, there was nothing set up in the budget to pay for the making or printing of said financial statement. All of our anticipated revenue has been budgeted against and I am wondering after the other is cleared up how we are going to pay said claims if they are just and due. On account of there being nothing set apart in the budget, to pay for the making and

and printing of the financial statement for this county, I have refused to issue warrants to pay same, as there is nothing provided in the budget to pay this, am I compelled to issue warrants to pay same?"

I

The State Auditor approves the financial statement as to form only

Under the provisions of Sec. 12166, Laws of Mo. 1933, page 356-357, it is the duty of the State Auditor to prepare sample forms, as follows:

" * * * Within twelve months after the effective date of this act the State Auditor shall prepare sample forms for financial statements and shall mail the same to the county clerks of the several counties in this state, but failure of the auditor to supply such form shall not in anywise excuse any person from the performance of any duty imposed by this act. * * * "

The State Auditor does not vouch for the authenticity or correctness of a printed financial statement; he merely prepares the forms which should be followed in the printing of the same. Once the form is prepared, his duty ends, except as provided in Sec. 12166, he must notify the county treasurer of the receipt of the proof of publication.

II

It is the duty of the person designated to prepare the financial statement to show that the same is correct

Section 12165, passed by the Legislature in 1931 was repealed and a new section enacted by the Legislature of 1935 known as Section 12165 (Laws of Mo. 1935, page 317). Under the provisions of this section, the county court may designate some person to prepare a financial statement and the same must be

prepared in conformity with the provisions of Section 12165. If the county court does not designate some other person, it may designate the Clerk of the County Court. In either event the following certificate must be appended to the prepared statement:

"I,, the duly authorized agent appointed by the county court of county, State of Missouri, to prepare for publication the financial statement as required by section 12165 of the Revised Statutes of Missouri, 1929, hereby certify that I have diligently checked the records of said county and that the above and foregoing is a complete and correct statement of every item of information required in said section 12165 of the Revised Statutes of 1929 for the year ending December 19.... and especially have I checked every receipt from every source whatsoever and every disbursement of every kind and to whom and for what each such disbursement was made and that each such receipt and disbursement is accurately shown. (If for any reason complete and accurate information is not given the following shall be added to the certificate):
Exceptions: the above report is incomplete because proper information was not available in the following records..... which are in the keeping of the following officer (or officers) The person designated to prepare the financial statement shall give in detail any incomplete data called for by this act."

From the above quoted certificate you will note that the person designated to prepare the statement must certify that the same is a correct statement of every item of information required by said section. The certificate also contains an exception if the report cannot be complete in every detail because of insufficient information.

If the person designated to make the statement certify falsely to any fact, the following provision is made to cover the same:
(Laws, 1935, p. 319)

"Any person falsely certifying to any fact covered by the certificate by this act required shall be liable on his bond therefor and upon conviction of so falsely certifying to any fact covered by such certificate shall be guilty of misdemeanor and punished by a fine of not less than two hundred dollars or more than one thousand dollars or by imprisonment in the county jail for not less than thirty days nor more than six months or by both such fine and imprisonment. Any person charged with the responsibility of preparing the financial report by this act required, who shall wilfully or knowingly make a false report of any record, shall, in addition to the penalty otherwise provided for in this act, be deemed guilty of felony."

In 1933, the Legislature made the following provision in regard to the person employed to prepare the financial statement of the county (Laws of Mo. 1933, p. 357):

" * * * If the county court shall employ any person other than a bonded county officer to prepare the financial statement herein required, the county court shall require such person to give bond with good and sufficient sureties in the penal sum of one thousand dollars for the faithful performance of his duty. If any county officer or other person employed to prepare financial statement herein provided for shall fail, neglect, or refuse to, in any manner comply with the provisions of this act he shall, in addition to other penalties herein provided, be liable on his official bond for dereliction of duty."

As to whether the financial statement is correct or incorrect, is a question of fact. If the person who was designated to prepare the statement for a stipulated amount has properly prepared same and made the certificate, then he is entitled to his compensation.

May 7, 1936.

If he has not properly prepared it, and we think the burden is on him to prove that the same was prepared in conformity with the statutes, then he has not fulfilled his contract and the county court would be justified in refusing to pay until the same is properly prepared.

III

With reference to the failure of the county court to include in the budget the cost of preparing the financial statement, an opinion was rendered by this department on March 21, 1935, to the Honorable J.T. Pinnell, Prosecuting Attorney, Pineville, Missouri, which, while not directly bearing on the question you ask, embodies the same principle, and we believe is applicable thereto; a copy of this opinion is herewith enclosed.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

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

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