

COUNTY BUDGET ACT: It is the duty of county court in counties of 50,000 population or more to adopt the budget 10 days before January 1 of each year unless terms of any of judges expire, in which event appropriation and final order shall be made on or before February 1.

4-20  
April 17, 1936.



Honorable John H. McNatt,  
Assistant Prosecuting Attorney,  
St. Louis County,  
Clayton, Missouri.

Dear Sir:

This department is in receipt of your letter of April 10 wherein you request an opinion regarding the following question:

"Will you kindly advise if the County Court of St. Louis County has until the end of the February Term to complete the budget under the new Budget Law?"

In the County Budget Act (Laws of Mo. 1933, p. 346), Sections 9 to 20 inclusive, these being the sections governing counties of the population of St. Louis County, we do not find any direct reference as to the time the budget is to be completed and filed. However, we note in Section 14 of the Act, page 349, the following:

"Except as hereinafter provided, the budget shall be adopted and the appropriation order finally made at least ten days before the beginning of the fiscal year.

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"In any year in which the terms of any of the judges of the county court expire, the budget shall be approved and the appropriation order made by the new court within thirty days after the beginning of the fiscal year."

Section 11, page 347, makes it the duty of the departments to submit to the budget officer the estimates of their respective offices on or before October 1 of each year. It is the duty of the budget officer, under the same section, to transmit the budget document fully prepared to the county court not later than November 15.

Bearing in mind that the statutes state it shall be adopted ten days before the end of the fiscal year unless the terms of any of the judges of the county court expire, we must determine what is meant by the term "fiscal year".

In the case of State ex rel. v. Appleby, 136 Mo. 408, the Court held that the county fiscal year begins on the 1st day of January and ends on the 31st day of December of each year.

Speaking on the same question in the case of Union Savings Bank v. Sealia, 300 Mo. 1.c. 412, the Court said:

"The constitutional provision, supra, covers both counties and cities. If the word 'year' as therein used means a calendar year as to counties, why should it mean a different thing as to cities? As to both it refers to and limits the debt-making power during the period of twelve months. The particular twelve months, we say, as to counties, is the twelve months beginning January 1st and ending December 31st. Not only so, but we have so said, where the matters at issue were the fiscal transactions of the counties. The fiscal year of the county by our ruling has been established as a calendar year. We can see no reason for a different rule as to cities, in that cities are placed in the same category in the constitutional provision. Our statute relative to the meaning of words (Sec. 7058, R.S. 1919) says: 'The construction of all statutes of this State shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the Legislature, or the context of the same statute: .....third, the word 'month' shall mean a calendar month, and the word 'year' shall mean a calendar year, unless otherwise expressed.' This statutory rule may have no application as to the word 'year' in the Constitution, because the statute (Section 7058, supra) is made applicable to statutes. It does have

application to Section 70 of the Act of 1893 (Laws 1893, p. 77) because the word 'year' is used therein. This is the original law by which cities of the third class were authorized to anticipate and use their annual revenue in advance of its actual collection, by the issuance of current revenue bonds. Under the rule made by Section 7058, supra, the word 'year' in the Act of 1893, would mean a calendar year, 'unless otherwise expressed' in the said Act of 1893. It is not specifically or 'otherwise expressed' unless it can be said that the qualifying word 'fiscal' amounts to an otherwise expression. We have given above the several definitions of the term 'fiscal year', and these definitions do not indicate that such a year should differ from the calendar year. Accounts can be balanced as well on December 31st as upon June 30th. So, too, settlements can be made as well upon the one date as the other. There is no real reason why the so-called 'fiscal year' should not correspond with the calendar year. It is at least safe to say that if we follow the rule given in Section 7058, supra, in the construction of Section 70 of the Act of 1893, we cannot say that it is therein so 'otherwise expressed', as to allow us to say that the year intended by the said Act of 1893, was other than a calendar year. The use of the word 'fiscal' does not suffice to change the situation."

#### CONCLUSION

In view of the terms of Sections 11 and 14 of the County Budget Act, it is the opinion of this department that it is the duty of the County Court in counties of the population of St. Louis County to adopt the budget and make the appropriation ten days before January 1 of each year, unless the terms of any of

April 17, 1936.

the judges of the County Court expire, in which event the appropriation and final order shall be made on or before February 1.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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

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