

EMPLOYMENT BUREAUS: County Court has no authority to issue warrant on county treasury for maintenance of the State Employment Bureau.

3-6
March 4, 1936.



Hon. John E. Mooney,
County Counselor,
Clayton, Missouri.

Dear Sir:

This department is in receipt of your letter of February 25 wherein you make the following inquiry:

"I have been instructed by the county court to ask you for an opinion in the legality of issuing a county warrant in the sum of three thousand dollars made payable to the State Employment Bureau for the purpose of maintaining the bureau.

"I instructed the court that in my opinion, since the State Employment Bureau was in no way a county institution nor under the control and domination of the county court that the county had no authority to grant said sum or any other sum. In my judgment the State Employment Bureau is distinctly a state organization, and is created and supported by the Legislature, and were the county court to grant a sum of money out of the County Treasury, they would be acting beyond the scope of their authority and the treasurer who would issue the money would be personally responsible."

The original statute relating to employment bureaus being established in certain cities is Section 13187, R.S. Mo. 1929. In 1931 the Legislature repealed said section and enacted in lieu thereof a new section known as Section 13187 (Laws of Mo. 1931, p. 259), the only change appearing to be that the population in cities

was reduced from 75,000 to 50,000 inhabitants. In 1935 the Legislature repealed the law of 1931 and reenacted Section 13187, Laws of Mo. 1935, p. 288, so that said section reads as follows:

"The commissioner of labor and industrial inspection shall organize and establish in all cities in Missouri, now containing or which may contain hereafter, according to the last preceding national census, fifty thousand inhabitants or more and in such other cities, towns or villages as he may deem necessary, a free public employment bureau for the purpose of receiving applications of persons seeking employment and applications of persons seeking to employ labor. No compensation or fee shall be charged or received, directly or indirectly, from persons applying for employment or seeking to employ labor through any such bureau."

We assume that in your county the county court is attempting to donate \$3,000 to the employment bureaus which have been organized in your county under Secs. 13187 to 13194 inclusive, R.S. Mo. 1929. We have searched the statutes diligently but find no provision which makes it incumbent upon the county court to contribute any funds for the organization or operation of such bureaus. It appears, as stated in your letter, that the matter is handled exclusively by the Bureau of Labor and Industrial Inspection of the State of Missouri.

The powers of the county court are defined by statute, and if their acts are to be legal, they must come clearly within the purview of a statute or clearly by implication, as was said in the case of *Major v. Patterson*, 229 Mo. 373:

"Where the county court had no power to make the order it did, no reason it may have assigned therefor is material or pertinent. No kind of a reason will justify an unauthorized act; nor will such express reason temperize the violation of law. The county court either did or did not have the right to act so that it is a pure question of power, and not otherwise."

In the case of *Blades v. Hawkins*, 240 Mo. 187, the Court said (Syllabus 2):

"The power of the county court to contract, or to do any other act, must be found in an express legislative grant, or else implied as essential to the proper execution of powers expressly granted or duties expressly imposed. Nor will power to do a thing be implied to belong to a county court unless it is cognate to the purpose for which the court was created. Sec. 6759, R.S. 1899 (Sec. 2778 R.S. 1909), detailing the scope of the powers of a county court or other municipality, is but declaratory of the common law."

In the case of *King v. Maries County*, 297 Mo. 488, the Court, in speaking of the powers of a county court said (Syllabi 1 and 2):

"A county court is not the general agent of the county, but has only such powers as are expressly given it by statute, with the qualification that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted.

"The county court prior to 1921 (Laws 1921, p. 673) had neither express nor implied powers to employ the owner of a set of abstract books to make and furnish a list of the owners and a true description of all lands in the county embraced in back tax bills issued by the collector, and to pay him a designated sum for each list so furnished. The duty of collecting delinquent taxes and of bringing suit therefor, and of ascertaining the name of the owner of the land, and if not known, to whom the same was last assessed, had by statute been devolved upon other county officials, and hence the county court could not employ an abstractor of titles to make a list of the owners of land from whom back taxes were

due, and though such abstracter complied with the terms of his employment he cannot recover from the county the moneys agreed to be paid him for his services rendered."

CONCLUSION

In view of the fact that there is no statute giving the county court authority to issue a warrant in the sum of \$3,000 to the State Employment Bureau, and that we are not able to point to a statute which impliedly gives the county court such power, we are of the opinion that no such authority exists and that such an act would be outside the scope of the powers of the county court.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

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

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