

COUNTY BUDGET ACT: Warrants in Class 6 may be used for taking care of a deficit in Class 4.

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3-29

March 25, 1937



Mr. Lee Barham  
Circuit Clerk  
Stoddard County  
Bloomfield, Missouri

Dear Sir:

Replying to your letter of March 11 relative to the County Budget Act, we shall again attempt to answer the question which you propound, which is as follows:

"In case the Budget for the year 1935, for Stoddard County, did not set up in class 4, a high enough estimate to pay the whole year's salary of the Deputy Circuit Clerk, which was \$100.00 per month, the Circuit Clerk estimated Budget being exhausted at the end of October of that year, leaving no allowance therein to pay the last two months' salary of the Deputy Clerk, and therefore the Court and the Clerk of the County Court could not order issued and issue warrants for these two months' salary, could class 6 warrants be issued for these two months' salary, provided of course, that there was no surplus estimates in any other classes that could be transferred to class 4?"

The point really involves two questions. The first one being can an officer exceed the amount of his

estimate or the amount accepted by the County Budget for him for the year. You state that the budget of the Circuit Clerk is exhausted, that is, all of the estimate as originally made has been paid. You do not explain as to why the deputy circuit clerk did not receive in the estimate the total amount of his salary for the year.

Section 3, page 342, of the County Budget Act, Laws of Missouri 1933, contains the duties of the various officers who shall claim compensation out of Class 4:

"It is hereby made the express duty of every officer claiming any payment for salary or supplies to furnish to the clerk of the county court, on or before the fifteenth day of January of each year an itemized statement of the estimated amount required for the payment of all salaries or any other expense for personal service of whatever kind during the current year and the section or sections of law under which he claims his office is entitled to the amount requested, also he shall submit an itemized statement of the supplies he will require for his office, separating those which are payable under class 4 and class 6. Officers who are paid in whole or in part other than out of the ordinary revenue, whether paid by fees or otherwise, shall submit an estimate for supplies in the same manner as officers who are paid a salary out of ordinary revenue. No officer shall receive any salary or allowance for supplies until all the information required by this section shall have been furnished. The clerk of the county court shall prepare and file an estimate for his office; also for the expense of the judges of the county court.

If for any year there should not be sufficient funds for the county court to pay all the approved estimates under class 4, after having provided for the prior classes, the county court shall apportion and appropriate to each office the available funds on hand and anticipated, in the proportion that the approved estimate of each office bears to the total approved estimate for class 4."

It would appear by the last sentence that if there are not sufficient funds in Class 4 to pay the approved estimates the county court shall apportion and appropriate to each office the available funds on hand and anticipated, in the proportion that the approved estimate of each office bears to the total estimate approved in Class 4. In Section 4 it is provided, in enumerating the duties of the county clerk,

"Less all known lawful obligations against the county December 31, last, and for which warrants were not drawn at that date,"

"Total unpaid obligations of the county on January 1st of the current year. (This shall include unpaid warrants and outstanding bills for which warrants may issue.)."

In the case of a deputy circuit clerk under the present statutes it is the duty of the county court to fix his salary, and we think that if the county court fixes the salary the deputy circuit clerk is entitled to the same, the same as any other officer whose salary or compensation is fixed by statute. If the deficit as to the deputy circuit clerk's salary is due to a mistake

in computation we think such a mistake could be rectified in the budget on file and that a copy of the correction could be mailed to the State Auditor. If the budget estimate is not elastic enough to permit the deputy circuit clerk to receive his salary, then he must lose the last two months' compensation as mentioned in your letter. As stated before, we think he is entitled to the same and that by the provisions of Section 4 it is contemplated that obligations from the previous year are carried over to the ensuing year.

The other question arises as to how he is to receive the compensation for the last two months. You suggest Class 6 provided that there is no surplus estimates in any other classes that could be transferred to Class 4.

Class 6, under Section 2, page 342, is as follows:

"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."

Under Section 5, which is an explanatory section relating to the classes as enumerated in Section 2, the provisions of Class 6 are further explained, as follows:

"Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes

have been provided for. No warrant may be issued for any expense in class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six. No expense shall be allowed under class six if any warrant drawn will go to protest. Provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of any such prior funds. Nor may any warrant be drawn or any obligation be incurred in class six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

By the terms of the above proviso:

"Provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of such prior funds."

It would appear that the Legislature contemplated that warrants can be drawn from class 6 in the event of a situation such as you present.

We are, therefore, of the opinion that funds from class 6 may be used to take care of the deficit in any

Mr. Lee Barham

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prior classes, which, in the instant case, is class  
4.

Respectfully submitted,

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APPROVED:

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