

COUNTY BUDGET ACT: (1) Only insane persons in state hospitals can be estimated under Class I, unless the insane person be committed to the state sanatorium at Mt. Vernon. (2) Funds for purchasing right-of-ways and materials on WPA labor and state highways should be estimated in Class 5.

February 9, 1937



Mr. Melvin Englehart
Prosecuting Attorney
Madison County
Fredericktown, Missouri

Dear Mr. Englehart:

This department is in receipt of your letter of February 2nd, wherein you make the following request relative to the County Budget Act:

I.

"Class I, provided, 'the county court shall set aside and apportion a sufficient sum to care for the insane pauper patients in state hospitals'. Does this include persons other than insane people? Should the expense of patients in the tuberculosis hospitals, who are indigent cases, be paid from the class?"

Your first question relates to Class I, page 341, Laws of Missouri, 1933:

"The county court shall set aside and apportion a sufficient sum to care for insane pauper patients in state hospitals. Class I shall be the first obligation against the county and shall have priority of payment over all other classes."

Section 5, page 344, which we deem to be an explanatory statute in referring to Class I, is as follows:

" * * * care of paupers declared by lawful authority to be insane (in state hospitals)".

Conceding that the Missouri State Sanatorium, at Mount Vernon, which may be the tuberculosis hospital which you have in mind, is a state hospital, or a state eleemosynary institution, yet by the terms of Class I, we are of the opinion that only insane pauper patients in state hospitals can be included in Class I, because the statute is not susceptible of any other interpretation.

II.

"In Class 3, it is provided, 'the county court shall next set aside and apportion the amount required, if any, for the upkeep, repair, or replacement of bridges on other than state highways (and not in any special road district) which shall constitute the third obligation of the county. 'Does this include anything other than the building of bridges? Does it include the purchase of right-of-way for county roads other than bridge sites, grading of roads, payment of road-overseers other than to build bridges and purchase of right-of-way for WPA projects which are later taken over and maintained by the State Highway Department, as a State highway?

"Suppose the State Highway Department and the County Court and WPA undertake to build a road. The Highway Department makes the survey and designates the route, the County Court purchases the right-of-way and the WPA furnishes

a part of the materials and the County Court a part of materials, the WPA all of the labor and the State Highway Department supervises the work and then maintains the road as a supplementary highway. Does the money used by the County Court come from Class 3?"

This question relates mainly to Class 3, page 341, of the County Budget Act, which is as follows:

"The county court shall next set aside and apportion the amount required, if any, for the upkeep, repair or replacement of bridges on other than state highways (and not in any special road district) which shall constitute the third obligation of the county."

The plain wording of the statute is to the effect that only the repair, upkeep or replacement of the bridges is included in Class 3. Many county courts have by inference and by construing it as the intention of the Legislature, included, in addition to bridges, upkeep, repair and construction of roads not on state highways or any special road districts. Other county courts have created another class of funds for the purpose of repair, upkeep and construction of roads. As stated above, we can not construe the statutes to include the upkeep and repair of roads.

Under Section 5, page 344, the Legislature further interpreted this portion of the statute to only include bridges, as follows:

"Repair and upkeep or replacement of bridges on other than state highways and not in any special road district. List bridges"

Therefore, in answer to your specific question, to-wit,

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"does the money used by the county court come from Class 3?", we are of the opinion that it does not.

Respectfully submitted,

OLIVER W. NOLEN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

OWN:RT