

COUNTY TREASURER:) Premium on surety bond may be paid
) by county if officer elects to
BONDS:) give same, and county court approves.
Surety Premium paid)
out of Classes 5 and)
6 under Budget Act.)

October 7, 1937.

10-8



Honorable M. Stanley Ginn
Prosecuting Attorney
Lawrence County
Aurora, Missouri

Dear Sir:

This is to acknowledge receipt of your letter of September 30th, in which you request the opinion of this Department on three questions therein submitted. Your letter is as follows:

"At page 190, The laws of Missouri 1937, Section one provides that public officers may enter into surety bond, and the costs to be paid by whom. I have three questions under this section, on which I would like to have your opinion.

- 1) If the County Court requires a surety bond, are they compelled to pay for the same?
- 2) Does the County Court have the right to refuse to pay for a surety bond, and thus compel the officer to either pay for the same or furnish a personal bond?
- 3) If the County Court does pay for the bond, out of what fund in the budget is the money taken?"

Replying to questions (1) and (2) in your letter, we are enclosing a copy of an opinion written to Honorable

Oct. 7, 1937

Alvin H. Juergensmeyer, Prosecuting Attorney of Warren County, which we think answers same.

In answer to your third question, we refer you to the County Budget Act, Laws of Missouri, 1933, page 341, et seq., and especially to Class 5 which relates to the "contingent and emergency expense of the county." We assume that you have funds in this Class, which, if available, could be used for the payment of the premium on the bond. Likewise, Class 6, which permits funds to be used for any lawful purpose providing there are no outstanding warrants.

The recent 59th General Assembly amended the Budget Act, Laws of Missouri, 1937, page 423, so that Class 5 now reads as follows:

"The county court shall next set aside a fund for the contingent and emergency expense of the county, the county court may transfer any surplus funds from classes 1, 2, 3, 4 to class 5 to be used as contingent and emergency expenses. From this class the county court may pay contingent and incidental expenses and expense of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service, (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes."

Therefore, the premium on the bond may be paid by the transfer of any surplus in Classes 1, 2, 3 and 4, or, as suggested above, may be paid from funds remaining in Class 5 or 6.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

CRH:EG

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General