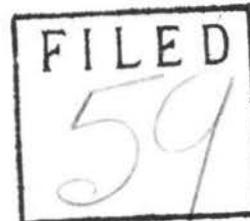


COUNTY BUDGET ACT: The money contracted by the county for lease on road machinery during the year 1936 must be paid out of the revenue of the year 1936.

January 26, 1937

1.29



Mr. C. W. McKim,  
County Clerk Worth County  
Grant City, Missouri

Dear Sir:

This department is in receipt of your letter of January 21, wherein you make the following request relative to the County Budget Act:

"If the County Court leases machinery at the beginning of one year making the lease come due in February of the following year which years revenue should the warrant be issued upon. Or at the beginning of 1936 Worth County leased some machinery, the lease coming due in February of 1937. Now then is it permissible to issue a warrant upon 1937 revenue or should it be issued upon 1936 revenue? Is a lease the same as any other bill and should be paid for out of the revenue of the year upon which most of the lease run or should it be taken from the revenue of the year in which the warrant is written, or upon the year the lease fell due?"

The County Budget Act, Sec. 1, p. 341, Laws of Missouri 1933 among the other duties of the County Court makes it mandatory for said court to prepare the budget from January 1 to December 31 in each year, in the following language:

"The county courts of the several counties of this state are hereby authorized, empowered and directed and it shall be their duty, at the regular February term of said court in every year, to prepare and enter of record and to file with the county treasurer and the state auditor a budget of estimated receipts and expenditures for the year beginning January 1, and ending December 31."

Therefore, the leasing of the machinery mentioned in your letter was within the period covered by the 1936 budget. We construe the leasing of the machinery to be a contract which must be taken into consideration in estimating the current or anticipated revenue for the year in which the contract was entered into.

Sec. 12 of article 10 of the Constitution of Missouri is as follows:

"No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, without the consent of two-thirds of the voters thereof voting on such proposition, at an election to be held for that purpose."

In the case of *Trask vs. Livingston County*, 210 Mo. 582 the court in discussing a contract, relative to a bridge to be constructed the following year, said:

"The Constitution permits the county court to anticipate the current revenues to the extent of the county's income for the year in which a debt is contracted or created, but prohibits the anticipation of the revenues for any future year. A bridge contracted for in September is to be paid for out of the revenue of the year in which the contract is made, if the appropriation therefore is not in excess of such revenues, and cannot be paid for out of the revenues for the next year, even though completed and accepted the next year."

#### CONCLUSION

We are of the opinion in view of the terms of the Budget Act and the decision quoted supra, the amount contracted for the lease of machinery must be paid out of the 1936 revenue. A lease only differs from an ordinary current obligation of the county to the extent that it must be paid out of the revenue of the year during which the contract was made, and not in the year in which the lease might terminate or fall due.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

OWN:JMN