

COUNTY BUDGET ACT: Funds for purchasing road machinery
cannot be taken from Class 3 under
Budget Act

January 18, 1937

Honorable George H. Miller
Prosecuting Attorney
Hickory County
Hermitage, Missouri



Dear Sir:

This department is in receipt of your letter of
January 9, wherein you make the following inquiry:

"Will you please advise me as
to whether or not money in the
class 'three' general revenue
funds may be used by County
Court to purchase road machinery."

Class 3 of the County Budget Act, Laws of 1933,
page 341, is as follows:

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

By analyzing Class 3 we think it was the intention
of the Legislature to confine the funds for this class
to the definite purpose of upkeep, repair or replacement
of bridges. In other words, to repair a bridge already
in existence or to replace a bridge which has been in
existence. We are of the opinion that you cannot construe
Class 3, even by implication, to include road machinery.

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Therefore, it is the opinion of this department that you cannot use the fund allotted to this class for the purchase of road machinery.

By way of suggestion, although your letter does not indicate the condition of your county with reference to the Budget Act, if there are any excess funds in Class 3, this being the close of the fiscal year, and all of the other classes have received their allotted priorities, then such funds may be used for the purchase of road machinery. The authority for the above statement being Section 12167, Revised Statutes Missouri 1929, which is as follows:

"Whenever there is a balance in any county treasury in this state to the credit of any special fund, which is no longer needed for the purpose for which it was raised, the county court may, by order of record, direct that said balance be transferred to the credit of the general revenue fund of the county, or to such other fund as may, in their judgment, be in need of such balance."

As stated above, we merely make the suggestion without being in possession of the facts relating to the financial condition of your county. If the suggestion is followed, of course, the burden is on the county officials to determine the facts.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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