

COUNTY COURTS: Contributions by counties to State Social Security Commission.

October 4, 1938

State Social Security
Commission of Missouri
Jefferson City, Missouri



Gentlemen:

This will acknowledge receipt of your letter of September 27, 1938, wherein you request an opinion of this office on the following two questions, to-wit:

"1. Can the County Court hire, pay for and furnish the services of a person to cooperate with the State Social Security Commission in the administration of the Social Security Law?

2. If the County Court can hire, pay for and furnish the services as referred to above, shall such expense be classified and charged as 'Contingent and Incidental Expenses and Expense of Paupers not otherwise classified', as set forth in Class 5 of the County Budget Act? (Laws of Missouri 1933, pp. 341-342.)"

Answering your first question, we say as follows:

I.

Section 10 of the Social Security Act, page 473, Laws of Missouri 1937, provides in part as follows:

"For the purpose of establishing and maintaining county offices, or carrying out any of the duties of the State Commission, the State is authorized to enter into agreements with any political subdivision of this state, and as a part of such agreement the State Commission may accept moneys, services or quarters as a contribution toward the support and maintenance of such county offices. * * * * * Other employees in the county office shall be residents of such county and shall be employed with due regard to the population of the county, existing conditions, and purposes to be accomplished and shall be paid by the State Commission."
(Emphasis Ours).

A county is a political subdivision of the State. In authorizing the State Commission to accept services from the county, the county necessarily must have the correlative authority to furnish such service.

A county as such can only act through human agency, or in other words, persons. Hence, by the apt terms of this section the State Commission is authorized to enter into a contract with the county, whereby the county is to furnish and the State Commission is to receive the services of a person or persons designated by the county as a contribution towards the support and maintainance of the Commission's County office.

Manifestly, it is clear that the services provided for in said section are services rendered by a human being designated or furnished by the county for such purpose.

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A companion question is whether the county is given authority by said section, or otherwise, to pay such person or persons rendering such service, out of the county funds.

It is a rule, generally, in this state, and all others, that "the laborer is worthy of his hire". The rule as stated in legal phraseology in 39 C.J. Sec. 192, page 142, is:

"The right of an employee to compensation rests in general upon the performance of services, under an agreement, express or implied, that compensation shall be had therefor,***"

However, we believe the authority given the county to pay such person is found in Section 10, itself, if not in express terms, at least by strong implication. We attach significance to the concluding sentence of the section, to-wit:

"Other employees in the county office shall be residents of such county and shall be employed with due regard to the population of the county, existing conditions and purposes to be accomplished and shall be paid by the State Commission." (Emphasis ours).

Manifestly, by the words "other employees" in the county office, such words or terms comprehend that there are additional persons or employees in such office, other than the "other employees" placed in such office by the Commission. The further fact that the section provides that the "Commission" shall pay such of the employees as are placed in the office by the Commission, reasonably leads to the conclusion that the Legislature intended that an employee or employees placed in the office by the county should likewise be paid by the county.

Additional reasons for our conclusions that the section itself provides authority for such payment by the county, lies in the fact the county is authorized to contribute money directly to the commission for the support and maintenance of the county office. Hence, the county authorized to use its funds in such last mentioned way, it would appear stultifying to the intention of the legislature to say that the county could not use such funds in paying the employees it furnishes for the benefit of the county office but must send such funds, if it contributes any at all, direct to the commission for the same purpose. It is to be noted, that the county is entitled to contribute three elements for the benefit of the county office, namely, moneys and services, and quarters.

Referring to the last element mentioned, to-wit, furnishing quarters for the county office, it would seem idle to say that the county could not pay rent for and furnish such quarters, if it were necessary so to do.

The county given the express authority, as it is, to contribute money, services and quarters for the benefit of the county office, then if it is to be prohibited in using such money, or any other county funds, in payment for the services mentioned, and/or, for rent and furnishing of quarters, the authority to furnish such services and quarters is destroyed and the evident legislative intent frustrated.

It is our conclusion that a county has the authority to furnish a person or persons to render service in support and maintenance of such county office of the State Commission, and to pay directly to such person such compensation as may be agreed upon between the county and such individual.

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II.

Relative to your second question, it is to be noted, that the division of the county funds under the County Budget Act, Laws of Missouri 1937, p. 423, requires that Class 5 shall provide for a contingent and emergency expense fund.

It is our conclusion that the payment for the services hereinbefore dealt with, can and should be classified and charged as contingent and incidental expense and expenses of paupers not otherwise classified. Or if Class 6 of the Budget Act contains the balance mentioned after the obligations called for therein, if any, are met, then payment for such services can be made out of either Class 5 or 6 as the case may warrant.

Respectfully submitted,

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APPROVED:

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JTB:MM