

COUNTY COURT: Must turn over proceeds of bond issue for poor relief to Social Welfare Board under Section 12938 R.S. Missouri 1929.

March 17, 1938

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Mr. John W. Mitchell
Assistant Prosecuting Attorney
Buchanan County
St. Joseph, Missouri



Dear Dr. Mitchell:

This Department is in receipt of your letter of March 7th, wherein you state as follows:

"Early this year the State Social Security Commission advised our County Court that the funds at its disposal would be adequate for only 60% of the relief needs of this County. After having canvassed the situation fully the County Court decided to call a special election for the purpose of authorizing a bond issue of \$285,000 with which to provide funds necessary to meet the remaining 40% of the relief needs of this County until the State Commission should be able to take care of all of them. At an election held on February 26th the County voted in favor of the bond issue. The question now arises as to the best method of making these funds available.

During January and February the State Commission agreed to carry the full relief load with the understanding that if the bonds carried the Court would in some manner reimburse the State for the extra money expended, and would thereafter take care of 40% of the relief needs in the County.

As I understand it the procedure followed by the State Commission in making payment for food, clothing and other items furnished to the relief clients is that the local director hands to the various parties needing them orders for these items, and that these orders are taken to approved stores to be filled. These stores in turn send them to Jefferson City and receive directly from the Treasurer's office remittances for the amount of such orders.

The County Court is now faced with the problem of determining the method of disbursing the proceeds of this bond issue in such a way as to supplement the expenditures made by the state.

Section 12938 to 12945, inclusive, R. S. 1929, as you know, create a "Social Welfare Board" for Buchanan County.

While the act is general in its terms, this county is the only one affected by it, as a matter of fact. Section 12938 provides that, "said board shall have exclusive control over the distribution and expenditure of any public funds set aside and appropriated by such cities and counties for the relief of the temporarily dependent."

Last November, upon a request from our Welfare Board for an opinion, your department in a letter dated November 16, 1937, addressed to Mr. J.E. Corby as President of the Social Welfare Board of St. Joseph, advised that the State Social Security Act does not repeal, expressly or impliedly the sections referred to above. However, since the State Social Security Commission has taken over relief in Buchanan County, the Welfare Board has been confining its activities to the care of the sick poor.

The question has now been raised as to whether or not the portions of the act quoted above make it mandatory for the County Court to pay to the Welfare Board all of the proceeds of the bond issue, and we desire your opinion on the point.

If it is not necessary that those funds be disbursed exclusively through our Welfare Board, what other means may be used by our County Court?

It has been suggested that possibly the State Social Security Commission might be a proper channel through which disbursement might be made, and if in your opinion it is not necessary that these funds be turned over to the Welfare Board, will you please advise us whether or not it would be permissible for the State Social Security Commission to disburse them, subject to the appropriation orders of our County Court.

The majority of the directors of the Welfare Board prefer not to handle the bond money. Their objection arises from the fact that if the money is turned over to them and by them placed in the hands of the State Commission, or its local representative, the Welfare Board would, on the face of the record, appear to have received the money and have disbursed it, when in fact all of the money would have been expended under the direction of the State Commission, and in accordance with policies with which the local Board had nothing whatever to do. As some of them have expressed it, "The Welfare Board's objection to this method is that all expenditures will be made by the Buchanan County Social Security organization, yet the Welfare Board's receipt for money so drawn would be given to the County Court."

Since the bonds will be sold shortly we would appreciate it if you will let us have your opinion on these questions as soon as possible."

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As we understand your problem, the county court has voted poor relief bonds, which kind of bonds in the case of State ex rel. Gilpin et al. vs. Smith, 96 S. W. (2) (Mo.) 40, were declared to be "for county public purpose" within the constitutional requirement that taxes can be levied and collected for public purposes only.

Prior to the special election for the purpose of authorizing the bond issue it was agreed, so we are advised, that if the State Social Security Commission would carry the full relief load for the months of January and February, and the bond issue passed, the amount of funds usually apportioned by the commission for relief purposes to Buchanan County would be cut down in proportion to the amount expended in January and February over and above the ordinary allotments.

Section 12938 R. S. Missouri 1929 gives the Social Welfare Board of St. Joseph, Missouri, exclusive control over the distribution and expenditure of any public funds set aside and appropriated by the city and county for relief of the temporarily dependent, in part as follows:

"In all counties in this state that now or may hereafter have located within said counties a city or cities of the first class, there is hereby created and established a board which shall be styled 'The social welfare board of the city of _____.' All powers and duties connected with and incident to the betterment of social and physical causes of dependency, the relief and care of the indigent, and the care of sick dependents, with the exception of the insane and those suffering with contagious, infectious and transmissible diseases, and excepting those persons who may be admitted to the county poorhouses of such counties, shall be exclusively invested in and exercised by said board. Said board shall have power to receive and expend donations for social welfare purposes and shall have exclusive control over the distribution and expenditure of any public funds set aside and appropriated

by such cities and counties for relief of the temporarily dependent."

You suggest that if the conclusion should be reached that it is not mandatory under the above section that the Social Welfare Board expend the funds, whether it would be permissible for the State Social Security Commission to disburse them.

Section 10 of the Laws of Missouri 1937, page 473, 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 Commission 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. Any funds so received shall be payable to the State Commission and deposited in the proper special account in the State Treasurer's office, and become and be a part of state funds appropriated for the use of the State Commission."

Section 20 of the Laws of Missouri 1937, page 476, provides in part as follows:

"The State Treasurer shall be treasurer and custodian of all funds and moneys of the State Commission and shall issue checks upon such fund or funds in accordance with such rules and regulations as the State Commission shall prescribe."

Thus if any moneys were received by the Social Security Commission they would have to be deposited in the

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State Treasurer's Office and become a part of the state funds appropriated for the use of the state commission. It is evident that such would be contrary to the purposes for which the funds were voted, viz, relief funds for Buchanan County.

Section 12938, supra, uses the word "shall," and when considered with the words "exclusive control" we are of the opinion that the legislature intended the use of the word to indicate a mandate. State ex rel. Stevens vs. Wuderman, 246 S.W. 189, 295 Mo. 566.

From the foregoing, we are of the opinion that Section 12938, R. S. Missouri 1929, makes it mandatory for the county court to turn over the proceeds of the bond issue for poor relief to the Social Welfare Board for distribution and expenditure for the relief of the temporarily dependent.

Respectfully submitted,

MAX WASSERMAN,
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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