

COUNTY BUDGET LAW - Surpluses may be transferred to take care of deficiencies in other classes at close of fiscal year, or if it can be definitely determined that sufficient funds will remain to take care of all outstanding and future obligations, transfer may be made before the close of the year.

November 21, 1938

11-25

Honorable Wayne V. Slankard
Prosecuting Attorney
Newton County
Neosho, Missouri



Dear Sir:

This department is in receipt of your letter of November 18, 1938, wherein you make the following inquiry:

"The funds set aside by the County Court in this County under the budget laws, for the roads and bridges or Class (3) have been exhausted and I would like your opinion as to whether or not other funds in other classes may be used for the payment of Class (3)."

The County Budget Act, Laws Mo. 1933, page 340, was amended slightly by the General Assembly of 1937, Laws Mo. 1937, page 422, etc.

Your attention is called to Class 5, page 423, which is 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."

Formerly, this Class was confined to one-fifth of the anticipated revenue. This provision is omitted, and permits a transfer of funds from the other Classes to Class 5. The main purpose of the County Budget Act was to create five Classes with rigid provisions for keeping within the anticipated revenue and sacredly preserving the priorities of each Class over each succeeding Class.

On January 28, 1936, this department rendered an opinion to the Honorable C. W. McKim, County Clerk of Worth County, Grant City, Missouri, in which it was held that at the close of a fiscal year, the county court may transfer any surplus funds from any Class and pay the deficits in other Classes.

It may be possible that you can await the close of the fiscal year and follow the procedure in the enclosed opinion. As a further suggestion, it may be possible that the finances of your county at the present time under the budget show a decided surplus in Classes 4 and 5. We think any surplus from Classes 4 and 5 may be transferred at the present time, provided that it can be ascertained with certainty that after the transfer is made, sufficient funds will remain in said Classes to carry out the terms of the Budget Act. In other words, we think transfers may be made from the Classes, if they do not jeopardize the priority of payments.

Respectfully submitted

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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