

COUNTY BUDGET ACT: Section 17, Laws of Missouri, 1939, page 660, applies only to counties having a population of over 50,000 inhabitants.

January 23, 1940

1-23



Hon. Ellsworth Haymes
Prosecuting Attorney
Webster County
Marshfield, Missouri

Dear Sir:

In reply to your request for an opinion on the following question:

"In the Laws of Missouri, 1933, sec. 17 of an act providing for a county budget, at page 349, it provides that the county court may borrow up to 75% of their estimated revenue for the year, so as to run the county on a cash basis. I would like to know whether this applies to all counties or just counties over 50,000 population as mentioned in sec. 9 of this same act."

At the outset we want to call your attention to the fact that the sections of the Budget Law as are set out in Laws of Missouri, 1933, are numbered 12126a to 12126v inclusive, (See Mo. Stat. Ann. Vol. 9), and for the purpose of this opinion will be numbered according to these numbers rather than like they are numbered in Laws of 1933, and Laws of 1939.

It will be noted in Section 12126a that the first portion of the section reads as follows:

"This act may be cited and quoted as the county budget law. All counties now or hereafter having a population of fifty thousand inhabitants or less, according to the last federal decennial census, shall be governed by Sections 1 to 8 inclusive, of this act. * * *"

As said in this section, 1 to 8 inclusive, has to do with counties under fifty thousand inhabitants and the remaining sections have to do with counties over fifty thousand inhabitants. In other words, the budget act presents two systems of procedure. The first eight sections govern counties of less than fifty thousand inhabitants, and the next sections regulate counties over fifty thousand inhabitants.

Your question goes to Section 17, Laws of 1933, and it will be noted in Laws of 1939, page 660, that the section 17 referred to in your letter is repealed and in lieu thereof a new section to be known as Section 17 relating to the same subject matter and provides for the registration of certain warrants and giving them preference and priority in payment. Now this section as is set out in Laws of 1939, carries the number in Mo. St. Ann. of 12126q. It will be noted that this section in substance follows the wording of Section 17 as it appears in Laws of 1933, except that "seventy-five per cent." was changed to "ninety per cent.", and this new section further provides for the registration of warrants and makes them preferred, etc. It will be further noted in Section 2, page 661, Laws of 1939, that Section 17 as set out in said act was repealed, and that Section 17 as appeared in Laws of 1933 was repealed, and that the new Section 17, or 12126q, was substituted as a new section in lieu thereof, and constituted a revision of said act. In other words, in the passing of Section 17 as it appears in the Laws of 1939, page 660, it was the clear intent of the Legislature that the new Section 17, or 12126q, was to take the same position in the budget law as did Section 17 of the 1933 Act.

Hon. Ellsworth Hames (3) January 23, 1940

Therefore, it is our opinion that Section 12126a when it says that counties having a population of fifty thousand inhabitants or less according to the last federal decennial census shall be governed by Sections 1 to 8 inclusive, and that Section 17 as was enacted and appeared in the Laws of 1939, page 660, still applies only to counties having a population of fifty thousand inhabitants or more.

In conclusion, it is the opinion of this Department that Section 17 of Laws of 1939, page 660, which said act also carries the number 12126a, Mo. St. Ann. Vol. 9, applies only to counties which have a population of over fifty thousand inhabitants.

Respectfully submitted,

B. RICHARDS CREECH
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

BRC:RV