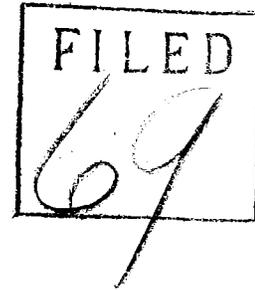


COUNTY SUPPLIES: Section 2511, R. S. 1939, did not prescribe method for purchase of supplies in counties having a population of 15,700 inhabitants.

April 17, 1941

Honorable James L. Paul
Prosecuting Attorney
McDonald County
Pineville, Missouri



Dear Sir:

This will acknowledge receipt of your letter of April 12, 1941, in which you ask for an opinion as follows:

"Would you kindly advise me whether or not section 2511 of the revised Statutes of Missouri, 1939, applies to counties with a population of 15,700, or whether supplies for a county of that size are to be purchased under a different section."

What is now Section 2511, R. S. Missouri, 1939, was enacted by the Fifty-third General Assembly in 1925. It was Senate Bill 312 and pertained only to counties having not less than 70,000 inhabitants nor more than 90,000 inhabitants. The title to the Act, and Section 1 of the Act, are herein below set out:

"AN ACT to amend article 5, of chapter 21, Revised Statutes of Missouri 1919, relating to county courts, by adding thereto sixteen new sections relating to county courts, and the judges thereof, in all counties of this state which may now or hereafter have not less than seventy thousand inhabitants, nor more than ninety thousand inhabitants, as shown by the last preceding decennial federal

April 17, 1941

census, which said new sections shall be designated and numbered sections 2590a, 2590b, 2590c, 2590d, 2590e, 2590f, 2590g, 2590h, 2590i, 2590j, 2590k, 2590l, 2590m, 2590n, 2590o and 2590p.

"That article 5, of chapter 21, Revised Statutes of Missouri, 1919, relating to county courts be and the same is hereby amended by adding thereto sixteen new sections relating to county courts, and the judges thereof, in all counties of this state which may now or hereafter have not less than seventy thousand inhabitants, nor more than ninety thousand inhabitants, as shown by the last preceding decennial federal census, which said new sections shall be designated and numbered sections 2590a, 2590b, 2590c, 2590d, 2590e, 2590f, 2590g, 2590h, 2590i, 2590j, 2590k, 2590l, 2590m, 2590n, 2590o and 2590p, and to read as follows:

Section 2511, R. S. Missouri, 1939, was Section 2590o of this Act.

We fail to find where this law has been amended in any way that would make it apply to counties having a population of 15,700.

As to how supplies for a county having a population of 15,700 are purchased, we do not find any section of the law prescribing a particular method for the purchase of all supplies for a county of this size. Section 2480, Article 13, Chapter 10, R. S. Missouri, 1939, furnishes authority for the county court to purchase supplies and is as follows:

"The said court shall have control and management of the property, real and personal, belonging to the county, and shall have power and authority to purchase, lease or

receive by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed and real estate, goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

In the cases of Ewing v. Vernon County, 216 Mo. 681, Harkarder v. Vernon County, 216 Mo. 696 and Motley v. Pike County, 233 Mo. 42, the purchase of necessary supplies, when the county court had refused to furnish the necessary supplies, by the county officer needing the supplies was upheld. These cases were decided before the passage of the 'County Budget Act.' This Act, which is now found in Article 2, Chapter 73, R. S. Missouri, 1939, contains Section 10912, which is as follows:

"It is hereby made the express duty of every officer claiming any payment for salary or supplies to furnish to the clerk of the county court, on or before the fifteenth day of January of each year an itemized statement of the estimated amount required for the payment of all salaries or any other expense for personal service of whatever kind during the current year and the section or sections of law under which he claims his office is entitled to the amount requested, also he shall submit an itemized statement of the supplies he will require for his office, separating those which are payable under class 4 and class 6. Officers who are paid in whole or in part other than out of the ordinary revenue, whether paid by fees or otherwise, shall submit an estimate for supplies in the same manner as officers who are paid a salary out of ordinary revenue. No officer shall receive any salary or allowance for supplies

Honorable James L. Paul

(4)

April 17, 1941

until all the information required by this section shall have been furnished.
The clerk of the county court shall prepare and file an estimate for his office; also for the expense of the judges of the county court. If for any year there should not be sufficient funds for the county court to pay all the approved estimates under class 4, after having provided for the prior classes, the county court shall apportion and appropriate to each office the available funds on hand and anticipated, in the proportion that the approved estimate of each office bears to the total approved estimate for class 4."
(underscoring ours)

From the above section you will note that whatever supplies are purchased an estimate of their cost must be included within the county budget for the year in which they are to be purchased.

CONCLUSION.

It is the conclusion of this Department that Section 2511 of Article 14, Chapter 10, R. S. Missouri, 1939, does not apply to counties having a population of 15,700 inhabitants; that there is no section of the statutes generally prescribing how purchases of supplies for counties of this size may be made; that the purchase of supplies may be made by the county court and, in some instances, by the officers who need the supplies, but that before the supplies can be lawfully purchased they shall have been included in the county budget.

Respectfully submitted,

APPROVED:

VANE C. THURLO
(Acting) Attorney General

W. O. JACKSON
Assistant Attorney General

WOJ/rv