

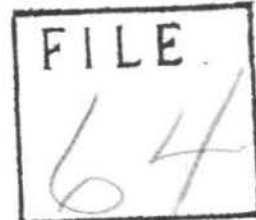
COUNTY BUDGET
LAW:

The county court shall, in its discretion, pay for the supplies of the public administrator when they are listed by the public administrator in the estimated supply budget as provided by law.

April 1, 1942

H-9

Honorable Mark Morris
Prosecuting Attorney
Pike County
Bowling Green, Missouri



Dear Mr. Morris:

We have your request for an opinion of February 16, 1942, which is as follows:

"It would be appreciated if you would send me an opinion on the following question:

Is the County supposed to pay for the office supplies of the Public Administrator?"

Also our telephone conversation as of March 28, 1942, in which you further advised that the supplies in question were set out by the Public Administrator in the proper time as provided for in Section 10912 R. S. Mo., 1939.

Section 10912 R. S. Mo. 1939, sets out the matter in which a county officer shall obtain the necessary funds to maintain his office and 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 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."

The State and County Budget Law of 1941 sets out the different classes of expenditures and the county court's duty thereto. In class four (4) the statute provides as follows in Laws of Missouri, 1941, l.c.651:

"The county court shall next set aside the amount required to pay the salaries of all county officers

where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. Only supplies for current office use and of an expendable nature shall be included in this class. Furniture, office machines and equipment of whatever kind shall be listed under class six."

Article 13, Section 295 R. S. Mo., 1939, provides for the election of a Public Administrator, and Section 296 of the same article is as follows:

"Each public administrator elected, as now or as hereafter provided for in this article, is hereby declared to be an officer for the county in which he is elected and for the city of St. Louis, if elected therein. The county courts of each county in this state now or hereafter having a population of 100,000 inhabitants or more according to the last federal census shall make suitable provision for an office for the public administrator in the courthouse of the county if suitable space may be had for same, and shall be provided as soon as the county court shall be of the opinion that the business in charge of the public administrator is such as to reasonably require a separate office for the convenience of the public: The public administrator of the city of St. Louis shall have suitable and convenient offices provided for him in the civil courts building by said city."

Article 6, Section 36 of our Constitution reads as follows:

"In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law. * * * *"

In the case of Rinehart v. Howell County, 153 S. W. (2d) 381, l.c. 383 the court ruled that where the Statutes specifically set out an emolument for a county officer in a county of a certain population but did not set out an emolument for a county officer of the same kind in a smaller county, the county court in its discretion could expend money in accordance with the Statute relating to the same officers in the larger counties. In this relation we quote:

" * * * * Appellant's statutory citations constitute legislative recognition of the propriety of expenditures for stenographic services in the discharge of the present-day duties of prosecuting attorneys in the communities affected-an approved advance in proper instances for the administration of the laws by county officials and the business affairs of the county and for the general welfare of the public. Such enactments, in view of the constitutional grant to county courts, should be construed as relieving the county courts in the specified communities from determining the necessity therefor and, by way of a negative pregnant, as recognizing the right of county courts to provide stenographic services to prosecuting attorneys in other counties when and if indispensable to the transaction of the business of the county, and

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not as favoring the citizens of the larger communities to the absolute exclusion of the citizens of the smaller communities in the prosecuting attorney's protection of the interests of the state, the county and the public. See the reasoning in *Swing v. Vernon County*, 216 Mo. loc. cit. 693, 116 S. W. loc. cit. 522. Consult *Harkreader v. Vernon County*, 216 Mo. 696, 116 S. W. 523, involving reimbursement to a sheriff of expenditures for water, gas, janitor service and stamps. *Buchanan v. Ralls County*, 283 Mo. 10, 222 S. W. 1002. Additional reasons sustaining the judgment nisi may be found in the cases cited. * * * "

CONCLUSION

It is, therefore, the opinion of this office that if the public administrator of a county with the population of under one hundred thousand (100,000) has listed his estimated expenditures as provided for in Section 10912.R.S. Mo., 1939, the county court may, in its discretion, pay for the office supplies of the public administrator.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

GW:FS