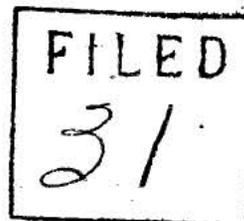


COUNTY COURT: Fees derived from license charges,
LIQUOR: under Liquor Control Act, must be
REVENUE: placed in the general revenue.



July 1, 1947

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Honorable W. C. Frank
Prosecuting Attorney
Adair County
Kirksville, Missouri

Dear Sir:

In your recent opinion request you ask the following question:

"The County Court of this county are desirous of placing the revenue collected for liquor licenses, pool halls and other licenses in the road and bridge fund.

"The County Clerk would like an official opinion from your office regarding the revenue from these sources. He would like to be informed as to where this revenue must be placed; that is, must revenue collected for such licenses be placed in the general revenue fund or can it be ear-marked for the road and bridge fund or any other special fund."

It may be conceded that Sections 4904 and 4945, R.S. Mo. 1939, do provide for license charges, to be levied by the County Court, upon those persons seeking to engage in the liquor traffic. Further, there is no question but that Section 15397, R.S. Mo. 1939, authorizes the County Court to place a license charge against the operation of a pool table or billiard table. The Legislature, while expressly authorizing the collection of license charges for these activities, failed to provide a method for determining where the funds derived from said license charges were to be placed. The only statutory definition of the term "revenue" to be found is contained in Section 10910, R.S. Mo. 1939, where, in part, it provides:

" * * * * Whenever the term revenue is used in this article it shall be understood and taken to mean the ordinary or general revenue to be used for the current expenses of the county as is provided by this article regardless of the source from which derived. * * "

The question presented is whether or not the revenue derived from these license charges is assignable to a special fund or whether said revenue must be assigned to the general revenue fund from which the county expenditures must come.

Section 10911, Laws of 1943, page 650, provides that the County Court shall classify proposed expenditures in six definite categories. Section 10914, Laws of 1943, page 652, provides that the County Court shall show the estimated expenditures for the year by classes. These classes, by statute, stand in priority to each other, therefore a class one obligation must be paid before any other subsequent class obligation is payable. If the funds that are to be derived from the charges for licenses for liquor and pool table licenses are assigned to a class other than the general revenue fund, it would, in effect, destroy the priority of classes for which the statute provides. In other words, if the priority provided for in Sections 10911 and 10914, as to the paying of obligations as to classes, is to stand, there can be no ear-marking of funds derived from a particular source. In fact, the quotation from Section 10910 clearly shows that the source of the income to the county is not the criterion to be used in determining whether funds are special or general revenue funds. Unless specific statutory authority for the proposal you suggest is found, it would be most illogical to conclude that a county can determine into which class funds, regardless of source, are to be deposited when one considers the direction of the Legislature that monies are to be paid out in priority as to class.

It seems apparent the Legislature contemplated that all revenue be considered general revenue, unless raised by special levy, when it determined that certain classes of obligations were to be paid in priority. If certain obligations were not prior to other obligations, it would have been an unnecessary act on the part of the Legislature

Honorable W. C. Frank

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to have established priority among various classes of county obligations.

Conclusion.

Therefore, this office must conclude that there is no authority for the County Court or any county officer to declare that funds from a particular source may be deposited in a particular fund. Further, that funds derived from license charges for liquor and pool table activities must be deposited into the general revenue fund.

Respectfully submitted,

WILLIAM C. BLAIR
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

WCB:ml