

COUNTY BUDGET LAW: Obligations incurred prior to December 31 of each year are paid from revenue for year in which they were incurred, and not from anticipated revenue in year in which bill was received.



March 7, 1955

Honorable Alden S. Lance
Prosecuting Attorney
Andrew County
Savannah, Missouri

Dear Sir:

We have received your request for an opinion of this office, which request reads as follows:

"I request that your office render an official opinion upon the following questions concerning county government.

"Andrew County, of which I am prosecuting attorney, is a third class county, having a population of between eleven and twelve thousand persons. The county court of this county is anxious to know whether or not third class counties are governed by Section 50.660, Mo. R.S. 1949, which Section pertains to rules governing contracts entered into by counties. Section 50.670 says that it shall be the duty of the county clerk to prepare all data, estimates, and other information needed or required by the county court for the purpose of carrying out the provisions of Sections 50.530 to 50.740. This would seem to indicate to me that it was the intent of the Legislature that third and fourth class counties be governed by Section 50.660, but there seems to be considerable dispute about this matter, and there are no cases which I am able to find that are directly in point, and I would appreciate having your opinion on the matter.

"I would also like an opinion upon the further

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question concerning the priority of payment of legal obligations incurred by a third class county through its county court under the following set of facts and circumstances. At the close of the calendar year 1954 there were certain outstanding obligations for supplies and materials purchased by the various departments of county government for which bills had not been presented to the county clerk for payment. Sometime during the month of January 1955, prior to the time the budget for the year 1955 had been prepared and approved by the county court, these bills began arriving at the office of the county clerk. I would like to know whether or not these bills for a prior year can be legally paid out of the anticipated revenue for the year 1955 at this time, or must they be held until near the end of the year to be paid out of any unobligated surplus which may be left in the various classes. The county clerk would like to know if the county budget law required him to show in his budget form these obligations for a prior year."

In response to your first question we are enclosing herewith copy of an opinion of this office dated February 16, 1955, rendered to Honorable Harold L. Miller, Prosecuting Attorney of DeKalb County, in which we concluded that Section 50.660, RSMo 1949, does not apply to counties of the third class.

Insofar as your second question is concerned, the following statutory provisions in the County Budget law appear to be relevant in answering it:

Section 50.670, RSMo 1949, provides, in part, as follows:

"* * * The county courts of the several counties of this state are hereby authorized, empowered and directed and it shall be their duty, at the regular February term of said court in every year, to prepare and enter of record and to file with the county treasurer and the state auditor a budget of estimated receipts and expenditures

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for the year beginning January first, and ending December thirty-first. The receipts shall show the cash balance on hand as of January first and not obligated, also all revenue collected and an estimate of all revenue to be collected, also all moneys received or estimated to be received during the current year. * * *"

(Emphasis ours.)

Section 50.690, RSMo 1949, provides, in part, 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 four and class six. * * *"

Section 50.700, RSMo 1949, provides, in part, as follows:

"Not later than the first day of February of each year after the effective date of this section, the clerk of the county court shall prepare and spread on the docket of the county court the following information and estimate: Tax rate for all revenue purposes for last preceding year as shown by the record, cents per one hundred dollars assessed valuation. Highest rate permitted for county by the constitution per one hundred dollars assessed valuation.

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Rate of taxation recommended as necessary by the county clerk for current year per one hundred dollars assessed valuation. Rate estimated by county court for current year per one hundred dollars assessed valuation, cents (to be filled in by county court after budget estimate has been approved by the court). Total valuation of all property subject to taxation for last preceding year. Estimated valuation of same for current year. Amount of taxes delinquent January first of current year. Cash balance in county revenue fund January first of current year. Less outstanding warrants for preceding years as follows: (list total by years). Less all known lawful obligations against the county December thirty-first, last, and for which warrants were not drawn at that date (itemized list of these obligations must be attached to the estimate). Total unpaid obligations of the county on January first of current year. (This shall include unpaid warrants and outstanding bills for which warrants may issue.) Net cash balance on hand January first of current year. * * *

(Emphasis ours.)

Section 50.720, RSMo 1949, provides, in part:

"Not later than the fifteenth day of January of each year, every officer who expects to claim pay for services or to receive supplies to be paid for from county funds shall submit to the county clerk the information herein specified. (If state funds are received or expected to be received for all or any part of the expense such shall be considered as county funds for the purpose of this request.) The estimate of each such officer shall cover the entire year beginning January first and ending December thirty-first, both dates inclusive. * * *"

(Emphasis ours.)

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Section 50.740, RSMo 1949, provides, in part:

"2. * * * The county treasurer shall not pay nor enter protest on any warrant for the current year until such budget estimate shall have been so filed. (This shall not apply to warrants lawfully issued for accounts due for prior year, lawfully payable out of funds for prior years on hand.) * * *"

In view of the foregoing provisions as a whole, it is apparent that the Legislature intended the budget to include all items of expense for which the county becomes obligated in the calendar year, although some items of expense might have been incurred at such a late date in the calendar year that payment during such year would be impractical. This conclusion appears to us to be called for by the provisions of Section 50.700, above quoted, which requires the county clerk, in preparing the budget document, to list all lawful obligations against the county as of December 31 and for which warrants had not been drawn at that date. This section requires that the amount of these items be deducted from the amount of cash on hand in ascertaining the cash balance for the county and in setting up the budget for the ensuing year.

In view of this provision, it appears to us that the Legislature contemplated that items of expenditure incurred prior to December 31 of each year should be paid from the county revenue for the year in which the obligations were incurred, and not as of the date on which the bill was submitted to the county. Consequently, in the case referred to by you the obligations should be paid out of 1954 revenue. Should the revenue have been insufficient for such purpose, then payment of such warrants would have to be made from class six in subsequent years whenever any cash balance existed in the county treasury after the payment of all claims under the first five classes.

As for the listing on the budget forms for the obligations of a prior year, it appears to us that Section 50.700, supra, covers this matter and does require an itemized list of these obligations to be attached to the budget document.

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CONCLUSION

Therefore, it is the opinion of this office that where a county incurs obligations prior to the thirty-first of December and the bills therefor are not received until after December 31, such obligations should be paid out of the county revenue for the year in which the obligation was actually incurred, and should not be paid out of the anticipated revenue for the year in which the bill was actually received. We are further of the opinion that the county clerk is required to show in his budget form the obligations for a prior year for which warrants had not been drawn as of December 31.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Robert R. Welborn.

Very truly yours,

JOHN M. DALTON
Attorney General

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