

COUNTIES:  
COUNTY POOR  
FUND:  
COUNTY ROAD  
AND BRIDGE  
FUND:  
COUNTY BUDGET:

FILED  
19

1. Money derived from the sale by a county of dairy herds owned by the county must be deposited in the county poor fund.
2. The money derived from the sale of ninety per cent of machinery by a county must be deposited in the county road and bridge fund where ninety per cent of such machinery was originally purchased with money from the county road and bridge fund.
3. None of such moneys to be spent this year, but all should be kept in such funds and be accounted for and used for expenditures included in next year's budget.

April 10, 1956

Honorable Frank D. Connett, Jr.  
Prosecuting Attorney  
Buchanan County  
St. Joseph, Missouri

Dear Mr. Connett:

Your request for an opinion from this office reads as follows:

"Buchanan County owns two dairy herds. It is the desire of the county court that these two dairy herds be sold and replaced with herds of beef-type cattle.

"If the county should sell these two dairy herds, must the money they receive from the sale of these herds go into the general fund and be kept there until budgeted next year or may they take the money from the sale and purchase beef-type cattle even though there was no such provision made in the budget?

"Just recently the county court sold some junk machinery and we would like to know what to do with the proceeds of that sale. Ninety per cent of the machinery was originally purchased from the road and bridge fund moneys. It is my idea that this money would have to be placed in the treasurer's office to the credit of the road and bridge fund and not be expended until next year. I would appreciate your advice as to whether or not that would be the correct disposition of the money."

Buchanan County, Missouri, under the terms of Section 48.020, RSMo 1949, is classified as a class two county.

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Section 205.610, RSMo 1949, requiring the county courts of each county in this state to provide, at the expense of the county, support for poor persons who are inhabitants of the county, reads as follows:

"The county court of each county, on the knowledge of the judges of such tribunal, or any of them, or on the information of any magistrate of the county in which any person entitled to the benefit of the provisions of sections 205.580 to 205.760 resides, shall from time to time, and as often and for as long a time as may be necessary, provide, at the expense of the county, for the relief, maintenance and support of such persons."

The request states that the county owns two herds of dairy stock, and that the county court contemplates the sale of these two herds. There is submitted in your request the question:

"If the county should sell these two dairy herds, must the money they receive from the sale of these herds go into the general fund and be kept there until budgeted next year or may they take the money from the sale and purchase beef-type cattle even though there was no such provision made in the budget?"

The request does not state that the two dairy herds owned by Buchanan County were acquired by the county under the authority of the county to provide for the support of the poor by appropriating, annually, funds from the revenue of the county with which the county purchased such dairy herds to provide and did provide thereby, at the expense of said county, for the relief, maintenance and support of such poor persons while inmates of the poorhouse or poor farm by supplying them with necessary raw material to be converted by their labor into articles of use, and for their support,

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nor that such dairy herds were a necessary equipment for the poor farm, but since Sections 205.610, 205.640, 205.660 and 205.670, severally, authorize the equipment of the county poor farm and other uses of such county poor fund, therefor, and since the request does state that said county does own the two dairy herds, based upon that knowledge and the fact that it is common knowledge that dairy products such as milk, cream, butter and cheese may be supplied for the inmates of such poor-houses for their benefit and support and welfare from dairy herds of cattle, we assume that the two dairy herds referred to were acquired by Buchanan county under the authority of some or all of the statutes relating to the support of the poor in that county.

It is clear, we believe, that under the terms of Section 205.740, RSMo 1949, the money received, in the event of the sale of the two dairy herds, as proposed, and if carried out by the county, money received from such sale should be placed in the fund for the support of the county poor. Said Section 205.740 reads as follows:

"All money that shall come into the hands of the superintendent from the sale of farm products, stock or other articles belonging to the county, and all other money belonging to the county that shall come into his hands from other sources, except by warrants drawn in his favor by the county court, shall be paid into the county treasury and placed with the fund for the support of the poor, and a receipt taken for the same."

Said section is created by the terms of Section 205.670, which reads as follows:

"The several county courts shall set apart from the revenues of the counties such sums for the annual support of the poor as shall seem reasonable, which sums the county treasurers shall keep separate

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from other funds, and pay the same out on the warrants of their county courts."

We believe this money should be kept and expended in strict compliance with the budget laws of this state applying to counties in class two, found in Chapter 50, RSMO 1949. Section 50.570 of that Chapter provides, among other statutes to be considered, directions for the preparation of a class two county budget. That section provides that on or before December first of each year, each department, office, institution, commission, or court receiving its revenue in whole or in part from the county shall prepare and submit to the budget officer estimates of its requirements for expenditures and its anticipated revenue for the next budget year with the corresponding figures for the last completed fiscal year and estimated figures for the ensuing year. The expenditures estimated shall be classified to set forth the data by funds (emphasis ours), organization units, character and objects of expenditure.

We believe such money derived from the sale of such dairy herds and is so paid into the county poor fund must be kept there until the next year's budget is made up. The money should not be spent this year to purchase beef-type cattle. Such cattle cannot be purchased with such funds at any time until authorized as an expenditure provided for in next year's budget.

This, we believe, answers your first question to the effect that the county may not take the money derived from the sale of the two herds of dairy stock, if such sale is consummated, and purchase beef-type cattle where there has been no provision made for it as an expenditure in the county budget.

The second question submitted is:

"What is to be done with the proceeds of the sale by the county of machinery, as junk, ninety per cent of which was originally purchased with money from the road and bridge fund moneys?"

This question is based upon the statement in the request

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that ninety per cent of such machinery so sold, as junk, was originally purchased with the road and bridge fund money. We believe that since ninety per cent of such machinery was purchased with money from the road and bridge fund it follows that the money realized from the sale of ninety per cent of such machinery should be deposited in the road and bridge fund in the office of the county treasurer and be kept there until next year's budget is being made up. Such money may not be spent this year and must be included in expenditures as authorized to be made in next year's budget.

We therefore believe that your view that money derived from the sale of ninety per cent of the machinery by the county which, as the request states, was purchased originally with money of the road and bridge fund, and that such money should be placed in the county treasury to the credit of the road and bridge fund and not be expended until next year as an expenditure provided for in next year's budget, is correct.

#### CONCLUSION

It is, therefore, considering the premises, the opinion of this office that money which may be received from the sale of the dairy herds noted in the request, assuming that such herds were acquired by the county with money from the county poor fund, and the money received from the sale by the county court of ninety per cent of such machinery, in each case, respectively, should be deposited in the county poor fund, and in the county road and bridge fund, and not be spent this year, but all of such money to be accounted for and disbursed next year as provided in the next year's budget plans covering each of said funds.

The foregoing opinion, which I hereby approve, was prepared by my assistant, George W. Crowley.

Very truly yours

John M. Dalton  
Attorney General