

COUNTY COURTS:
JOHNSON GRASS:
SURPLUS FUNDS:

A special fund for the eradication of Johnson Grass may be transferred to the general revenue fund, or to such other fund as may be in need of such balance, upon the termination of a county as a Johnson Grass Extermination Area.

Opinion No. 389

December 7, 1964



Honorable Clyde F. Portell
Representative
Ste. Genevieve County
Ste. Genevieve, Missouri

Dear Representative Portell:

By letter dated November 16, 1964, you made the following request for an opinion from this office:

"I would like to have your opinion regarding disposition of Johnson Grass monies in our County. Eradication of Johnson Grass was voted out at the Primary Election on August 4th of this year.

"The balance of money in this fund from last year's taxes is \$8,164.37. The taxes for this year were already extended in the tax books before this issue was voted out, therefore, an estimate of what the tax collections for this year in this fund will be approximately \$10,500.00."

Sections 263.255 through 263.267, RSMo 1959 provide for the eradication and control of Johnson Grass. These statutes provide for the levy and collection of a tax and the purposes for which the fund resulting from the special taxes may be expended. These statutes also provide for the termination of the eradication program. However, these statutes do not provide for the disposition of a balance remaining in the Johnson Grass fund upon termination of the program.

The following provisions of the statutes apply to county finances in general:

Honorable Clyde F. Portell

"Section 50.020. Transfer of county funds. --
Whenever there is a balance in any county treasury in this state to the credit of any special fund, which is no longer needed for the purpose for which it was raised, the county court may, by order of record, direct that said balance be transferred to the credit of the general revenue fund of the county, or to such other fund as may, in their judgment, be in need of such balance.

"Section 50.030. Section 50.020 construed. --
Nothing in section 50.020 shall be construed to authorize any county court to transfer or consolidate any funds not otherwise provided for by law, excepting balances of funds of which the objects of their creation are and have been fully satisfied."

The Missouri Supreme Court, en Banc, construed these statutes in Decker v. Deimer, 129 SW 936 (1910) as follows, l.c. 948:

"The bald question then is: May a county court transfer a surplus and divert it from a fund, having a designated and given purpose, to another legitimate county purpose, by force and reason of the satisfaction of the original use or purpose? We answer that question in the affirmative"

The cited statutes and the court decision construing the statutes are applicable to the question which you have raised.

Conclusion

Upon the termination of the classification of a county as a Johnson Grass Extermination Area, pursuant to Section 263.267, RSMo 1959, the county fund for eradication of Johnson Grass may be transferred by order of the County Court to the credit of the general revenue fund of the county or to such other fund as may be in need of such balance.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Thomas J. Downey.

Yours very truly,


THOMAS F. EAGLETON
Attorney General