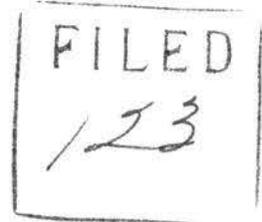


COUNTIES: (1) A county court can enter into a contract  
COUNTY COURT: with an individual agreeing to pay such  
AMBULANCE SERVICE: individual not to exceed \$5,000 during a  
year for ambulance services for which the  
individual is unable to collect from persons for whom he has fur-  
nished ambulance service if such individual submits said claims to  
county court for the amounts he is unable to collect. (2) The  
county court of a third class county does not have the authority  
to make a deposit of county funds in an individual's name, allowing  
him to draw upon said account for payment of ambulance services  
for the amount he is unable to collect from persons for whom he  
has furnished ambulance service.

OPINION NO. 123

August 7, 1969

Honorable Urban C. Bergbauer, Jr.  
Prosecuting Attorney  
Iron County Court House  
Ironton, Missouri 63650



Dear Mr. Bergbauer:

This letter is in response to your request for an opinion relative to Section 67.300, RSMo. Supp. 1967, regarding the county court's authority to contract with an individual for ambulance services.

This opinion is directed to the three specific questions outlined by you, to wit:

"1. Does the county court of a third class county have the authority to make a deposit in an individual's name, allowing him to draw upon said account for payment of ambulance services whenever he is not paid by a customer?"

"2. Can the county court enter into a contract with an individual agreeing to indemnify such individual up to \$5,000 during the year for ambulance services for which the individual is not paid, if such individual submits claims to the county court monthly for such unpaid bills?"

"3. Can the unused portion of the \$5,000 deposit, if any, be carried over to the following year for such purposes by a contract entered into during this year, or should the remainder be returned to the county at the end of the year?"

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Your request then is to be considered in light of Section 67.300. Such section provides:

"Counties and cities, towns and villages authorized to operate ambulance service - - rates may be set - - insurance may be purchased. - - 1. Any county, city, town or village may provide a general ambulance service for the purpose of transporting sick or injured persons to a hospital, clinic, sanatorium or other place for treatment of the illness or injury, and for that purpose may

(1) Acquire by gift or purchase one or more motor vehicles suitable for such purpose and may supply and equip the same with such materials and facilities as are necessary for emergency treatment, and may operate, maintain, repair and replace such vehicles, supplies and equipment;

(2) Contract with one or more individuals, municipalities, counties, associations or other organizations for the operation, maintenance and repair of such vehicles and for the furnishing of emergency treatment;

(3) Employ any combination of the methods authorized in subdivisions (1) and (2) of this section.

"2. The municipality or county shall formulate rules and regulations for the use of the equipment and may fix a schedule of fees or charges to be paid by persons requesting the use of the facilities and provide for the collection thereof.

"3. The municipality or county may purchase insurance indemnifying against liability of the county or city and the driver and attendants of the ambulance for the negligent operation of the ambulance or other equipment or supplies or in rendering services incidental to the furnishing of the ambulance service."

The first question for consideration is whether a county can enter into a service contract with an individual to furnish ambulance service, or, whether the county must acquire motor vehicles suitable for such purpose and contract with individuals, municipalities, counties, associations or other organizations for the operation, maintenance and repair of the motor vehicles. Section 67.300, grants any county the broad right to:

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"\* \* \* Contract with one or more individuals, municipalities, counties, associations, or other organizations for the operation, maintenance and repair of such vehicles and for the furnishing of emergency treatment; \* \* \*"

It is our view that Section 67.300 authorizes the county court to purchase or acquire by gift motor vehicles suitable for ambulance purposes, authorizes the letting of contracts to individuals to operate, maintain and repair vehicles owned by the county, and also authorizes the county to contract with individuals to furnish ambulance service by the use of vehicles owned or leased by such individuals. Therefore, the county court has the authority to enter into a contract with a private individual to provide an ambulance service.

The next question is whether the county court can enter into a contract for an indefinite amount, but for a maximum sum. The Supreme Court of Missouri has held that contracts made by a city, which are authorized, are no different than other contracts and are measured by the same tests and subject to the same rights and liabilities. State ex rel Kansas City Insurance Agents Assn. v. Kansas City, 4 S.W.2d 427. The principle enunciated in such case is equally applicable to a county court acting within its statutory authorization.

The Supreme Court of Missouri has further held in Burger v. City of Springfield, 323 S.W.2d 777, that a contract does not fail for lack of definiteness where at the time of execution of the contract the amount to be paid by one of the parties could not then be determined. l.c. 784:

"The mere fact that, at the time the contract was executed, the amount to be paid by the city could not then be determined in dollars and cents did not adversely affect the validity of the contract."

Thus, a county court can enter into a contract for an indefinite sum of money when the contract provides for a maximum amount to be paid by the county.

It is the conclusion of this office, therefore, that a county court may enter into a contract with an individual agreeing to pay such individual up to \$5,000 during the year for general ambulance services for which the individual is unable to collect from persons for whom he has furnished ambulance service if such individual submits claims to the county court for the amounts he is unable to collect.

Question No. 1 above concerns the authority of the county court to deposit funds to an individual's account with the account

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to be drawn upon by said individual, for ambulance service charges which are not paid by the persons for whom he has furnished ambulance service.

There would appear to be no extra-ordinary grant of power in Section 67.300, which would broaden the manner in which a county court may handle its fiscal responsibility. The powers of the county court to audit and pay claims against the county are set out, in Section 50.160, RSMo 1959, which reads, in pertinent part:

"The county court shall have power to audit, adjust and settle all accounts to which the county shall be a party; to order the payment out of county treasury of all sums of money found due by the county on such accounts; \* \* \* (Emphasis added)

Further authority for county court action in the area of claims against the county is found in Section 50.180, RSMo 1959, which reads in pertinent part:

"When the county court shall ascertain any sum of money to be due from the county, as aforesaid, such court shall order its clerk to issue therefor a warrant, specifying in the body thereof on what account the debt was incurred for which the same was issued, \* \* \* (Emphasis added)

Thus, it can be seen there must be a sum of money found due with said amount due to be paid by warrant issued by the county clerk.

The Supreme Court of Missouri has consistently held that the power of a county court is strictly statutory and as a consequence any deviation from prescribed statutory procedures is without the county court's competence. In Bauer v. Franklin County, 51 Mo. 205 (1873), the court in speaking of a county court's statutory authority, stated at 208:

"It invests them with authority when the county is a party, to audit, adjust and settle all accounts, and to order the payment out of the County Treasury of any sum of money found due by the county; and the only means they can resort to upon such adjustment or settlement is to order their clerk to issue a warrant (citing authority)"

It is the conclusion of this office that the county court of a third class county does not have the authority to deviate from the statutes set out herein by making a deposit in an individual's account allowing him to draw upon said account for payment of ambulance services.

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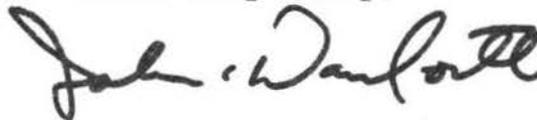
The third question herein involves the problem of whether any amount which is not drawn on by the ambulance service in the contract year may be automatically carried over in the account to the next fiscal year, or whether the remainder of the deposit should be returned to the county at the end of the year.

Because of our conclusion stated above, to wit: that the county court has no power or authority to make a deposit in an individual's name and allow him to draw upon said account for payment of ambulance services whenever he is not paid by a customer, the third question becomes moot.

#### CONCLUSION

Therefore, it is the opinion of this office that: (1) A county court can enter into a contract with an individual agreeing to pay such individual not to exceed \$5,000 during a year for ambulance services for which the individual is unable to collect from persons for whom he has furnished ambulance service if such individual submits said claims to county court for the amounts he is unable to collect. (2) The county court of a third class county does not have the authority to make a deposit of county funds in an individual's name, allowing him to draw upon said account for payment of ambulance services for the amount he is unable to collect from persons for whom he has furnished ambulance service.

Yours very truly,



JOHN C. DANFORTH  
Attorney General