

BUDGET LAW - County Court cannot re-budget after budget is made up at the regular February term.

7-16
July 14th, 1934



Honorable Elbert L. Ford
Prosecuting Attorney
Dunklin County
Kennett, Missouri

Dear Mr. Ford:

Your letter dated June 19th, 1934 addressed to this department was received. Your letter is as follows:

"I am having more trouble about the budget system. The budget as originally made by the County Court of this County placed in Class Number 4 \$41,709.73 and in Class Number 5 \$9,605.00. There is only about \$1500.00 in Class Number 5 and it is going to run short quite a bit and there is left in Class Number 4, \$26,000.00, so it looks like it will run long about \$8,000.00.

Please advise me by return mail if the County Court can re-budget and add \$5,000.00 to Class Number 5 and deduct it from Class Number 4. As you know Class Number 5 takes care of the in-mates of the County Farm and it is very necessary that we get your opinion about this as soon as possible."

The Budget Law, as now exists, is to be found in Laws 1933, p. 340.

Section 1 of the Law in part provides:

" * * 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 for the year beginning January 1, and ending December 31. * * "

Section 3, in part, reads:

"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 4 and class 6."

Section 4, in part, is as follows:

"Not later than the first day of February of each year after the effective

date of this act, the clerk of the county court shall prepare and spread on the docket of the county court the following information and estimate: * * "

Section 6, concerning the duties of county officers with reference to the Budget Law, in part, is:

"Not later than the 15th 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 hereinafter 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. No pay shall be received by any officer who fails to file this estimate."

Section 8 of the Act, in its entirety, provides:

"It is hereby made the first duty of the county court at its regular February term to go over the estimates and revise and amend the same in such way as to promote efficiency and economy in county government. The court may alter or change any estimate as public interest may require and to balance the budget, first giving the person preparing supporting data an opportunity to be heard but the county court shall have no power to reduce the amounts required to be set aside for classes 1 and 3 below that pre-

vided for herein. After the county court shall have revised the estimate it shall be the duty of the clerk of said court forthwith to enter such revised estimate on the record of the said court and the court shall forthwith enter thereon its approval. The county clerk shall within five days after the date of approval of such budget estimate, file a certified copy thereof with the county treasurer, taking his receipt therefor, and he shall also forward a certified copy thereof to the state auditor by registered mail. 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). If any county treasurer shall pay or enter for protest any warrant before the budget estimate shall have been filed, as by this act provided, he shall be liable on his official bond for such act. Immediately upon receipt of the estimated budget the state auditor shall send to the county clerk his receipt therefor by registered mail.

Any order of the county court of any county authorizing and/or directing the issuance of any warrant contrary to any provision of this act shall be void and of no binding force or effect; and any county clerk, county treasurer, or other officer; participating in the issuance or payment of any such warrant shall be liable therefor upon his official bond."

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From all of the foregoing, it needs no elaboration to reach the conclusion that it was the intention of the Legislature to pass an effective County Budget Law, and that the budget should be made up and completed by the several county courts at the regular February term of the sittings of such courts. The penalties provided in the Act by way of denying the right of compensation to officers who refuse to comply with same, as well as rendering officials who violate the Act, liable on their official bonds, make it clear that it was the intention of the Legislature to provide against any evasion of or deviation from the plain and strict requirements of the Act.

We are of the opinion that your county court cannot now re-budget its expenditures.

However, if in making up the classification of expenditures, the county court budgeted estimated expenditures in one class when, as a matter of law, such expenditures should have been budgeted in another class, the budget may be revised to the extent of permitting that to be done now which the law required to be done when the budget was originally made up.

Yours very truly,

GILBERT LAMB
Assistant Attorney General

APPROVED:

ROY McKIPTRICK
Attorney General

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