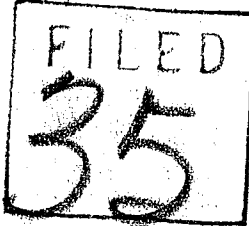


COUNTIES:  
COUNTY COURTS:  
COUNTY FINANCES:  
COUNTY BUDGETS:  
CLASS 6 EXPENDITURES:

A third class county may not make expenditure for items in class 6 of its budget until it has sufficient cash on hand to meet all expenses of the county for the current year in the preceding five classes plus any obligations previously incurred in class 6.



May 5, 1955

Honorable J. W. Grossenheider  
Prosecuting Attorney  
Laclede County  
Lebanon, Missouri

Dear Mr. Grossenheider:

This will acknowledge receipt of your recent letter wherein you request an official opinion of this office on the following matter:

"I would like to refer you to Section 50.680 and Section 50.710 RSM 1949 and in particular that portion of the statutes under Class 6. The language of the statute in the latter instance is 'No warrant may be issued for any expense in Class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six.'

"Our county court and our county treasurer are concerned with this portion of the statute and I would like to receive an opinion from your office interpreting this statute. Surely this does not mean that a county must have enough cash on hand to pay all of the prior class expenses for the entire year before any Class 6 expense can be paid. The proper interpretation must be that actual cash means actual cash plus anticipated revenue, otherwise were the county to have more than cash to pay its Class 1 expenditures and yet not enough to pay the Class 2 expenditures, warrants would have to be protested when there would actually be a surplus on hand after the Class 1 expenses had been paid. The literal language of this statute would imply that this was the case and because I could find

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no cases covering this statute I would like to receive an opinion from your office interpreting this statute. I do not wish to advise the treasurer to pay the Class 6 expenses and become liable on his bond in the face of the wording of this statute without an opinion from your office."

Section 50.680, RSMo 1949, provides for the classes of expenditures and provides that class 4 shall include, among other things, the amounts necessary for the conduct of the various offices including stamps, stationery, blanks and other office supplies for the current operation of the office. It is specifically provided that such things as furniture, office machines and equipment of whatever kind shall be listed under class 6.

It appears from an examination of this section and the general scheme provided by the County Budget Law as a whole, that the idea upon which this law is based is that the county will so regulate its finances as to be able to operate on current income. It will be noted that the first five classes set up by said Section 50.680, deal with current expenses and that matters which would constitute capital expenses are relegated to class 6. This law further provides that all current expenses shall be taken care of before any expenses in the nature of capital expenditures are incurred or paid.

The county budget law repeatedly provides that capital expenditures in class 6 shall not be made until the county has sufficient cash on hand (not estimated income which, in fact, may never materialize) to meet all of its current expenses for the year. Thus, Section 50.680 provides that the county court cannot incur any expenses in class 6 unless there is actual cash on hand to pay all of the preceding classes plus any expenses previously incurred in class 6. This section also provides that the county must pay all outstanding warrants that are legal obligations of the county before they may spend any money from class 6.

Section 50.690, RSMo. 1949, contains similar provisions. It requires that each officer shall at the beginning of the year submit estimates of the moneys required for salaries and supplies, that there must be an itemized statement of the supplies that will be required and that such statement shall separate those items of supplies which are properly payable under class 4 and class 6.

It further provides that if the county does not have sufficient funds to pay all of the items in class 4 that the county court shall apportion the funds available for class 4 among the various county offices. Although it is not specifically spelled out in this statute,

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it is clearly contemplated that in said circumstances no expenditure will be made from class 6 when there are insufficient funds to pay all the items in class 4.

Section 50.700, RSMo. 1949, provides that the county clerk shall make certain estimates of expenditures and income and that the county court shall balance its budget on the estimated income as far as classes 1 to 5, inclusive, are concerned. However, if any expenditures under class 6 are contemplated the court is required to balance its budget as far as such class 6 expenditures are concerned on actual cash on hand, not on estimated revenue.

Section 50.710, provides that after the budget has been made and the county is going about its business and expending its funds for the purposes authorized by the budget, no warrant may be issued in class 6 unless there is actual cash in the treasury to pay all prior claims for the entire current year plus any previous warrants issued in class 6. It is further provided that no expense in class 6 shall be allowed if any warrant will go to protest and that no warrant shall be drawn or an obligation incurred in class 6 until all outstanding lawful warrants for prior years shall have been paid.

In considering payments under class 6, the Supreme Court pointed out in the case of Elkins-Swyers Office Equipment Co. v. Moniteau County, (Sup.) 209 S.W. 2d. 127, 1.c. 129:

"Section 10913 requires the clerk of the county court to spread of record by February 1st of each year certain information and estimates therein specified and, after providing for the deduction of 10% under 'estimated receipts' for delinquent taxes, 'to get the net amount estimated for purposes of budget,' requires the county court to 'balance its estimated budget for the year for the first five classes on the net estimate. If any expenditure under class six is anticipated the budget so far as expenditure under class six is concerned must be balanced on the actual cash on hand and not on estimated revenue.'"

#### CONCLUSION

On the basis of the foregoing it is the conclusion of this office that no expenditure may be made under class 6 unless, and until, the county has sufficient cash on hand not only to meet such expenditure but also to cover all of the expenses for the entire current year in all prior classes plus any previous expenses theretofore made in class 6 and plus any outstanding warrants for prior

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years. In other words, the statutes contemplate that no capital expenditure under class 6 shall be made until the county has the actual cash on hand to cover all of its current expenses and to pay all of its past debts.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Fred L. Howard.

Yours very truly,

John M. Dalton  
Attorney General

FLH:mw