

COUNTIES: If county budget for Class 3, provided for in Section 50.680, RSMo 1949, is not sufficient to take care of unforeseen expense in that fund, the county court may use money in Class 6 to defray such expenses if Class 6 contains a sufficient sum not subject to restrictions mentioned in said statute.

December 7, 1960



Honorable W. H. Pinnell
Prosecuting Attorney
Barry County
Cassville, Missouri

Dear Mr. Pinnell:

This opinion is rendered in reply to your inquiry reading in part as follows:

"May the County Court issue warrants for bridges or roads out of the general revenue account of the county. Assuming that such warrants cannot be issued out of the general revenue funds, are the County Clerk or the County Treasurer liable on their bonds if the County Clerk signs the warrants, or in the case of the County Treasurer, cash such warrants."

Your request involves a construction of Section 50.680, RSMo, 1949, which provides:

"The court shall classify proposed expenditures in the following order:

"Class 1. The county court shall set aside and apportion a sufficient sum to care for insane pauper patients in state hospitals. Class one shall be the first obligation against the county and shall have priority of payment over all other classes.

"Class 2. Next, the county court shall set aside a sum sufficient to pay the cost of elections and the cost of holding circuit court in the county where such expense is made chargeable by law against the county except where such expense is provided for in some other classification by this law. This shall constitute the second obligation of the county and all proper claims coming under this class shall have priority of payment over all except class one. In estimating the amount required in class two the county court shall set aside and apportion in the budget a sum not less for even years than the sum actually expended in the last even numbered year and for odd years an amount not less than the amount that was actually expended during the last preceding odd numbered year.

"Class 3. The county court shall next set aside and apportion the amount required, if any, for the upkeep, repair or construction of bridges and roads on other than state highways (and not in any special road district). The funds set aside and apportioned in this class shall be made from the anticipated revenue to be derived from the levies made under Section 137.555, RSMo 1949. This shall constitute the third obligation of the county.

"Class 4. The county court shall next set aside the amount required to pay the salaries of all county officers where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. Only supplies for current office use and of an expendable nature shall be included in this class. Furniture, office machines and equipment of whatever kind shall be listed under class six.

"Class 5. The county court shall next set aside a fund for the contingent and emergency expense of the county, the court may transfer any surplus

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funds from classes one, two, three, four to class five to be used as contingent and emergency expense. From this class the county court may pay contingent and incidental expenses and expense of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service, (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes.

"Class 6. After having provided for the five classes of expenses heretofore specified, the county court may expend any balance for any lawful purpose; provided, however, that the county court shall not incur any expense under class six unless there is actually on hand in cash funds sufficient to pay all claims provided for in preceding classes together with any expense incurred under class six; provided, that if there be outstanding warrants constituting legal obligations such warrants shall first be paid before any expenditure is authorized under class six."

The purpose and scope of Class 6 is best reflected in the following language from State ex rel. Strong v. Cribb, 364 Mo. 1122, 1.c. 1128, 273 S.W. (2d) 246:

"It is common knowledge that unforeseen events often occur which require expenditures in excess of the amount assigned to a certain class such as Class 3, the bridge and road fund. If the budget for such class is not sufficient to take care of the unforeseen expense, the county court may use money in Class 6, provided there is a sufficient sum in that class that is not subject to the restrictions mentioned in the statute * * * The object of the constitutional provision, Sec. 26 (a) of Article VI, and the 'County Budget Laws,' supra, is to compel counties and municipalities to operate on a cash basis. In other words, the governing body may not obligate the county or municipality in a sum in excess of the revenue provided for any one year. The sum available to be spent in any one year is the revenue provided for that year 'plus any unencumbered balances from previous years.'
Sec. 26 (a), supra."

Based on quoted language above from State ex rel. Strong v. Cribb, an affirmative answer is here given to your first question,

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and in the light of such answer your additional question becomes moot.

CONCLUSION

It is the opinion of this office that if the county budget for Class 3, the bridge and road fund, provided for in Section 50.680 RSMo 1949, is not sufficient to take care of unforeseen expense in that fund, the county court may use money in Class 6 to defray such unforeseen expense so long as there remains in Class 6 a sufficient sum that is not subject to restrictions mentioned in said statute.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Julian L. O'Malley.

Yours very truly,

John M. Dalton
Attorney General

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