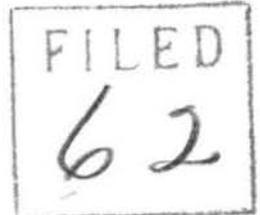


COUNTY BUDGET: Appropriation for Ripley County Farm Bureau, ordered to be made by Circuit Court, should be included in Class 4 of budget, and if there are insufficient funds in Class 4 to pay all approved estimates of said class, such funds should be apportioned to each office in proportion to the approved estimates of each office in Class 4. County Court cannot reduce estimated expenditures for Circuit Court expenses below 1946 and transfer such amount to Class 4 for County Farm Bureau.

April 23, 1948



Honorable Leo Mitchener
County Clerk
Ripley County
Doniphan, Missouri

4-27

Dear Sir:

This is in reply to your letter of recent date, requesting an official opinion of this department and reading as follows:

"Attached is a certified copy of order made today by the Ripley County Court. I would like your opinion as to my liability on my official bond if I issue warrants on this amended budget. Will I in any way endanger myself by issuing warrants for the amount and for purposes not originally set up in the budget, in view of the holdings of the Courts that the budget cannot be amended or changed after it is once made up at the first of the year?"

The certified copy of the order you refer to in your opinion request is an order of the County Court of Ripley County stating that in the 1948 budget \$1500 was appropriated in Class 2 for Circuit Court expenses; that no appropriation was made for the Ripley County Farm Bureau; that as a result of a mandamus suit in the Circuit Court, the Circuit Court ordered the County Court to make an appropriation of \$1000 for the Ripley County Farm Bureau, and the County Court, in its order, transferred \$1000 from the appropriation in Class 2 for Circuit Court expenses to Class 4 for the use and benefit of the Ripley County Farm Bureau.

Section 5, Laws of Missouri, 1945, page 100, provides that the county's share of the cost of carrying on cooperative extension work in agriculture and home economics shall be included by

the county court in Class 4 for such year in counties budgeting the county expenditures by classes. Therefore, the order of the Circuit Court, requiring the budgeting of \$1000 for the County Farm Bureau, properly places such sum in Class 4.

Section 10914, R. S. Mo. 1939, provides that the county court shall show the estimated expenditures for the year by classes, and places in Class 2, among other things, the expense of conducting circuit court. Such section further provides that the estimate in Class 2 shall not be less than the last preceding even year in even years and last preceding odd year in odd numbered years. Therefore, the budget for Class 2, in 1948, cannot be less than that for the year 1946.

Section 10911, R. S. Mo. 1939, provides that the Class 2 expenditures, consisting in part of the cost of holding circuit court, shall constitute the second obligation of the county, and that all proper claims coming under the second class shall have priority of payment over all except Class 1.

Section 10914, supra, provides under subsection Class 5 that the county court may transfer any surplus funds from Classes 1, 2, 3 and 4 to Class 5 to be used as contingent and emergency expenses. Since this is the only provision for transferring funds from Class 2, and it presupposes also an actual surplus, it is our opinion that funds cannot be transferred from Class 2 to Class 4.

If there are funds budgeted in Class 5 of the budget, which is the contingent and emergency expense class, then warrants on said Class 5 should not be paid until the entire amount budgeted in Class 4, including the \$1000 for the County Farm Bureau, have all been paid, since those statutory expenditures in Class 4 have priority over the discretionary expenditures in Class 5.

In the case of Gill v. Buchanan County, 142 S. W. (2d) 665, the court held that the full pay of a county judge was by law made a part of the county budget, whether or not such pay was included by the members of the county court in the budget. The order of the Circuit Court of Ripley County in ordering the payment by the County to the County Farm Bureau of the \$1000, by force of law, includes such expenditure in Class 4 of the budget.

Section 10912, R. S. Mo. 1939, provides, in part, as follows:

" * * * If for any year there should not be sufficient funds for the county court to pay all the approved estimates under class 4, after having provided for the prior classes, the county court shall apportion and appropriate to each office the available funds on hand and anticipated, in the proportion that the approved estimate of each office bears to the total approved estimate for class 4."

Therefore, if there are insufficient funds in Class 4 of the budget, when the \$1000 which was transferred to such Class 4 is retransferred to Class 2, where it belongs, to pay all expenditures budgeted under such Class 4, the available funds in Class 4 should be apportioned to each office in the proportion that the approved estimate of each office bears to the total approved estimate for Class 4.

CONCLUSION

It is the opinion of this department that the County Court has no power to transfer funds from Class 2 of the budget to Class 4 to pay for the county's share of the cost of the County Farm Bureau, when such payment by the County is ordered by the Circuit Court.

It is further the opinion of this department that if there are insufficient funds in Class 4 of the county budget to pay all claims in such class, the County Court shall apportion and appropriate to each office the available funds in Class 4, in the proportion that the approved estimate of each office bears to the total approved estimate for Class 4.

Respectfully submitted,

C. B. BURNS, Jr.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General *JB*

CBB:HR