

BUDGETS: Budgets of counties of less than fifty thousand population are based on the valuations for 1945.

W. P. Smith

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Mr. Leo Mitchener
County Clerk
Ripley County
Doniphan, Missouri

Dear Sir:

Receipt of your request for an opinion from this office is hereby acknowledged. Your request reads as follows:

"At the request of the County Court, I am writing you for information for making up the 1946 County Budget for Ripley County. Since under the new constitution, no assessment has been made for 1946, will we base our 1946 budget on the valuations used for 1945?"

The authority for making a budget in counties of less than fifty thousand population is granted by Section 10910, R. S. Mo. 1939, which provides:

"This law may be cited and quoted as the county budget law. All counties now or hereafter having a population of fifty thousand inhabitants or less, according to the last federal decennial census, shall be governed by Sections 10910 to 10917, inclusive, of this article. Whenever the term revenue is used in this article it shall be understood and taken to mean the ordinary or general revenue to be used for the current expenses of the county as is provided by this article regardless of the source

from which derived. 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. The receipts shall show the cash balance on hand as of January first and not obligated, also all revenue collected and an estimate of all revenue to be collected, also all moneys received or estimated to be received during the current year. The clerk of the county court of the several counties of this state shall be the budget officer of such county and as such shall prepare all data, estimates and other information needed or required by the county court for the purpose of carrying out the provisions of this article but no failure on the part of the clerk of the county court shall in any way excuse the county court from the performance of any duty herein required to be performed by said court. The county court shall classify proposed expenditures according to the classification herein provided and priority of payment shall be adequately provided according to the said classification and such priority shall be sacredly preserved."

With regard to the valuations to be used for the 1946 budget, Section 10915, R. S. No. 1939, provides:

"Not later than the first day of February of each year after the effective date of this article, the clerk of the county court shall prepare and spread on the docket of the county court the following information and estimate: Tax rate for all revenue purposes for last preceding year as shown by the record, cents per \$100.00 assessed valuation. Highest rate permitted for county by the Constitution per \$100.00 assessed valuation. Rate of taxation recommended as necessary by the county clerk

for current year per \$100.00 assessed valuation, cents (to be filled in by county court after budget estimate has been approved by the court). Total valuation of all property subject to taxation for last preceding year. Estimated valuation of same for current year. Amount of taxes delinquent January 1 of current year. Cash balance in county revenue fund January 1 of current year. Less outstanding warrants for preceding years as follows: (list total by years). Less all known lawful obligations against the county December 31, last, and for which warrants were not drawn at that date (itemized list of these obligations must be attached to the estimate). Total unpaid obligations of the county on January 1st of current year. (This shall include unpaid warrants and outstanding bills for which warrants may issue). Net cash balance on hand January 1st of current year. If revenue is overdrawn the estimate shall show amount of overdraft in red ink.

"ESTIMATED RECEIPTS: Cash on hand (as shown above) not obligated, January 1st of current year. If an overdraft show in red ink. Estimated from taxes for ordinary revenue for current year. Other revenue (each source shall be stated separately) estimated. Total estimated county revenue for the current year from all sources. Ten per cent shall be deducted from total for delinquent taxes to get the net amount estimated for purposes of budget. The court must 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." (Emphasis ours.)

These statutes are still in effect and are not in conflict with the new Constitution.

At the time the 1946 budget is made, the valuation could not be complete since the county board of equalization

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meets in April and the equalization process is not completed until the full process of evaluation is at an end. Therefore, the only valuations upon which the 1946 budget can be based are the valuations used for levying the taxes collected in 1945.

CONCLUSION

The 1946 budget of counties of less than fifty thousand population is based on the valuations used for 1945.

Respectfully submitted,

J. MARTIN ANDERSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JMA:HR