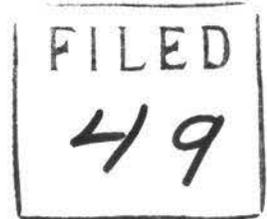


COUNTIES:)
FARM TO MARKET:
COUNTY BUDGET ACT:

The county court may anticipate the state aid for farm to market roads in its budget.

January 6, 1948



Mr. William H. Kimberlin
Legal Advisor
Buchanan County Court
St. Joseph, Missouri

Dear Mr. Kimberlin:

This is in reply to your request for an opinion from this office, which reads as follows:

"The County Court of this county has made the necessary arrangements, as required under House Bill No. 214, which created a County Aid Road Fund, to complete road projects during the year 1948, which will entitle this county to approximately \$26,000.00 to be paid by the State from that fund.

"The County advertised for bids under Section 5 of that bill and subsequently rejected all of the bids as too high and have since decided to complete the work, as county projects as authorized by that Section. Of course, upon completion of the work the State Auditor will forward a draft, drawn on the State Treasury to the treasurer of this county in the amount of approximately \$26,000.00 as above mentioned.

"Since there is a pressing need for road improvement in this county and those projects will be completed by June 1, 1948, the County Court is interested in making plans to spend this money on other road work after June 1948. This amount will be in excess of the anticipated revenue for 'Special Road and Bridge Fund' of this county for 1948,

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and the County Auditor has questioned his authority to incur obligations against this money in 1948 under Section 10933 Laws 1945, page 609.

"As the intent of the Legislature to assist with construction of Farm to Market roads is involved, and thinking that your office has had this matter before them in like situations, we would appreciate your opinion on the two questions, to-wit:

"1. Does the County Court have authority under Section 10923 Laws, page 604 to anticipate income from the County Aid Road Fund Laws 1945 - Page 1471 for purposes of the County Budget for 1948 even though it is not due and payable until the work is completed by county employees and approved by the State Highway Commission?

"2. Is there any way that the County Court can legally spend the money referred to in the previous question during 1948 without it being included as on items of the Budget?"

The question which is involved in this request is one of first impression in this office. The applicable statutes are House Bill No. 214, passed by the 63rd General Assembly, Laws of Missouri, 1945, page 1471, the County Budget Law as amended by House Bill No. 834, found in Laws of Missouri, 1945, page 610, and Senate Bill No. 484, found in Laws of Missouri, 1945, page 603. Buchanan County is a county of the second class.

We believe that the County Court of Buchanan County is authorized to anticipate the income from an appropriation pursuant to the provisions of the County Aid Road Fund Law of 1945. You have stated in your letter that the County Court of Buchanan County has done all things required by the law providing for obtaining state aid to the counties in the construction and maintenance of farm to market roads. All that remains to be done before the county will receive the money anticipated by this law is that the work be finished and approved by the State Highway Commission. Of course, it must be assumed that the county will complete the work in accordance with the plans and specifications previously submitted to the State Highway Commission and approved by the Commission. In this connection, it should be pointed out that

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the appropriation in furtherance of this bill expires on June 30, 1948, and in order to be certain that the county may receive this money the work should be completed and approved before June 30, 1948.

Section 10910, Mo. R.S.A., 1939, provides as follows:

"This law may be cited and quoted as the county budget law. All counties of the third and fourth classes 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 date, 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 payments shall be adequately provided according to the said classification and such priority shall be sacredly preserved."
(Underscoring ours.)

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Section 10923, Senate Bill No. 484, Laws of Missouri, 1945, page 604, provides, among other things:

"The annual budget of any such county shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures. * * *"

From a reading of Sections 10910 to 10923, above, it is our opinion that it was the intent of the Legislature, in providing for the County Budget Law, that anticipated income and revenue from whatever source should be included in the budget for the ensuing year.

Inasmuch as we have answered your first question in the above manner, we do not feel that it will be necessary at this time to answer your second question as the money to be received from the state, upon completion and approval of the road projects, may be included in the budget for 1948.

CONCLUSION

It is the opinion of this department that the County Court of Buchanan County may anticipate the income to be received from the state upon completion and approval of the work done, in compliance with House Bill No. 214, Laws of Missouri, 1945, page 1472.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:

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J. E. TAYLOR
Attorney General