

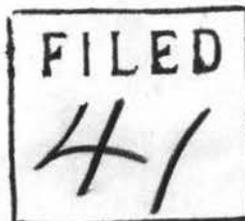
SOCIAL SECURITY:
COUNTY BUDGET LAW:

County contribution imposed by
Senate Bill No. 3 is included in
the 1951 budget and is payable
from class 4.

August 28, 1951

8-29-51

Honorable W. H. Holmes
State Auditor
Capitol Building
Jefferson City, Missouri



Dear Sir:

Reference is made to your recent request for an official opinion of this department which request reads as follows:

"In instances where county courts enter into contract and agreement with the State Comptroller for coverage under Senate Bill Number 3 of the Sixty-Sixth General Assembly, the employer's contribution to be borne by the county, is it permissible for the county court to make the contribution for the year 1951, in as much as said contribution was not included in the 1951 budget? If it is permissible, from what class of the General Revenue should the contribution be made?

We are assuming for purposes of this opinion that you have reference to the county budget law for counties of the third and fourth class since you have asked from what class of general revenue the county's contribution under Senate Bill No. 3, should be made.

You first inquire whether it is permissible for the county court to make the employee's contribution under Senate Bill No. 3 inasmuch as said contribution was not included in the 1951 budget.

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I am enclosing an opinion rendered to the Honorable Joe C. Welborn, Prosecuting Attorney of Stoddard County, dated July 18, 1949, holding that a prosecuting attorney's increase in salary, as provided by the General Assembly, is automatically included within the budget of counties of the third and fourth class although the act granting such increase was not passed until after the county budget was drawn up. The reasoning found in this opinion would be applicable to your question. In other words, although Senate Bill No. 3 authorizing the county court to make employer's contributions was not finally approved until after the 1951 budget was drawn up, nevertheless such an expenditure by virtue of said act would be automatically included in the 1951 budget.

You next inquire from what class of general revenue should the contribution be made.

Section 50.710, RSMo 1949, provides for the classification of estimated expenditures as follows:

"The court shall show the estimated expenditures for the year by classes as follows:

"Class 1. Care of paupers declared by lawful authority to be insane (in state hospitals).

"Class 2. Expense of conducting circuit court and elections, not to include the salary of any officer or employee on a yearly salary nor deputy or assistant of any kind whatever though on irregular time, such shall be estimated for under class four. Class two shall include pay of jurors, witnesses if properly paid by the county, and other incidental court costs, pay of judges and clerks of elections and all other expense of elections chargeable against the county. This estimate shall not be less than last preceding even year in even years and last preceding odd year in odd numbered years.

"Class 3. Repair, upkeep and construction of roads and bridges on other than state highways and not in any special road district. List roads and bridges to be constructed.

"Class 4. Pay or salaries of officers and

office expense. List each office separately and the deputy hire separately. (County clerk shall prepare estimate for the county court but his failure does not excuse the court.)

"Class 5. Contingent and emergency expense. - The county court may transfer any surplus funds from class one, two, three, and four to class five to be used as contingent and emergency expenses. Purposes for which the court proposes the funds in this class shall be used shall be shown.

"Class 6. Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes have been provided for. No warrant may be issued for any expense in class six 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. No expense shall be allowed under class six if any warrant drawn will go to protest; provided, however, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of such prior funds. Nor may any warrant be drawn or any obligation be incurred in class six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

By a mere reading of the first three classes it is easily determinable that such expenditure does not come under any of them, because the expenditure is not for the care of paupers who are insane in state hospitals, nor is it for the expense of conducting circuit courts or holding elections, nor is it for the repair or construction of roads and bridges.

We are likewise of the opinion that it was not intended to fall within class 5 or 6, although in one sense it might be considered a contingent or emergency for the year 1951. We do not

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believe that this is the correct interpretation in view of the case of Gill v. Buchanan County referred to in the enclosed opinion, it holds that a like expense was automatically included at the time it was drawn up. Since 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 year and since under the provisions of Senate Bill No. 3, it was contemplated that the county should have funds available to make such contributions, we do not believe that it could be considered in this class.

The county's contribution in regard to officers and employees under Senate Bill No. 3 bears a close affinity to the pay or salary of officers and office employees. It, of necessity was based upon the number of officers and employees and is proportionate to salaries received by such officers and employees. Therefore, we are of the opinion that since this expenditure was automatically included in the county budget for 1951, it was intended to be paid from funds in class four of the county budget law for counties of the third and fourth class.

CONCLUSION

Therefore, it is the opinion of this department that the contributions imposed upon counties by the provisions of Senate Bill No. 3 is automatically included within the budget of counties of the third and fourth class and is payable out of class four of the county budget law applicable to such county.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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encl.