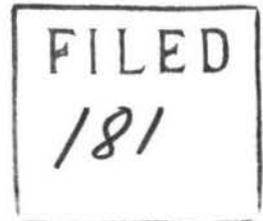


May 28, 1974

OPINION LETTER NO. 181
Answer by letter-Klaffenbach



Honorable John D. Ashcroft
State Auditor of Missouri
State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Ashcroft:

This letter is in response to your question asking whether counties may spend money from general revenue to meet disaster emergency needs when such expenditures have not been budgeted and such expenditures are to be eventually reimbursed through federal grants.

It is our understanding that such federal grants are available to the counties under the Disaster Relief Act of 1970, Public Law 91-606, to aid the counties in making disaster emergency repairs necessitated by floods. The counties were unable to foresee such immense flooding and did not have money budgeted in their emergency funds to meet their immediate needs. We also understand that the counties made application to the federal government for such grants, made such expenditures as were required out of county general revenue (although federal advances were possible), and through the disaster planning offices of the state government, made claims for total reimbursement of such expenditures from the federal government.

The minimum 3% emergency budget fund, which is normally maintained pursuant to Section 50.540, RSMo, is insufficient; and in any event, it would be impossible to budget for such contingencies.

In such a situation where the Governor has declared a disaster, the applicable provisions are found in Chapter 44, RSMo, relating to civil defense.

Honorable John D. Ashcroft

Section 44.010, subsection (1), RSMo, defines "civil defense" as ". . . government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;" and, under subsection (3) "disasters" is defined as ". . . disasters which may result from enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural causes;". "Political subdivision" under subsection (6) of such section includes "any county."

Subsection 2 of Section 44.080, RSMo, provides:

"2. In carrying out the provisions of this law, each political subdivision may:

(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for civil defense purposes, provide for the health and safety of persons, including emergency assistance to victims of any enemy attack; the safety of property, and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal and state disaster and emergency planning;"

We conclude that under such provision the counties may make disaster expenditures out of their general revenue even though such expenditures have not been budgeted and that the counties do not thereby violate the law in making unbudgeted disaster expenditures under such circumstances.

Yours very truly,

JOHN C. DANFORTH
Attorney General