

COUNTIES: County budget law, Sections 50.670 to 50.740, RSMo 1949, applicable to fourth class counties, does not  
BOND ISSUES: authorize bond issue to retire unpaid county warrants. Section 108.130, RSMo 1949, authorizes fourth class counties to fund any judgment indebtedness resulting from the issuance of unpaid county warrants.

March 21, 1952



3-21-52

Honorable James L. Paul  
Prosecuting Attorney  
Mc Donald County  
Pineville, Missouri

Dear Mr. Paul:

The following opinion is rendered in reply to your request which reads as follows:

"It has been brought to my attention recently, that the County of McDonald, has been using current receipts for the year 1951, to pay back warrants of 1950; current receipts for 1950 to pay back warrants of 1949, etc. In their budget they have not been showing these outstanding warrants as unpaid at the beginning of each current year.

"A recent check reveals that at the close of 1951, there will be approximately \$27,000.00 in outstanding warrants issued in 1951, which are unpaid.

"I would, therefore, appreciate you furnishing me an opinion whether under the present budget law, a County of the fourth class, such as McDonald County, can vote a bond to pay these outstanding warrants, so that they can get on a current operating basis for the coming year.

"In view of the urgency, of this situation and the making of the budget the first of February, an early reply will be greatly appreciated."

Honorable James L. Paul

The county budget law applicable to counties of the fourth class is found at Sections 50.670 to 50.740, RSMo 1949. Investigation discloses that McDonald County is a county of the fourth class. Sections of the county budget law, above referred to, do not provide for the issuance of bonds to pay unpaid obligations of previous years.

This department is not in a position to pass upon the legality of warrants issued by McDonald County in 1951 in the amount of \$27,000 and which remain unpaid as of this date, as disclosed in the request for this opinion. We have found no specific statutory provision authorizing a bond issue to retire outstanding warrants issued by the county court, but we do call your attention to Section 108.130, RSMo 1949, which provides as follows:

"The several counties and municipalities of this state are hereby authorized to fund any judgment indebtedness of such county or municipality and to issue bonds therefor as provided by the general law governing the issuance of bonds by counties and municipalities respectively. The issuance of such funding bonds under this section shall be deemed and held by all courts in this state, to all intents and purposes, the incurring of a new indebtedness; and thereafter no question shall ever be raised in any court as to the validity of such indebtedness, except questions of constitutional limitation of indebtedness. Such funding bonds shall not be exchanged or delivered in payment of such judgment indebtedness nor any part thereof. The provisions of this section shall not be deemed to be repugnant to nor inconsistent with section 108.140; but the power and authority hereby conferred shall be deemed to be cumulative thereof. "

The above quoted statute contains ample authority for the requisite number of qualified electors of McDonald County to petition the county court of said county to call an election for the purpose of voting a bond issue to retire any judgment indebtedness that may result from the issuance of \$27,000 worth of outstanding county warrants issued in 1951.

Honorable James L. Paul

CONCLUSION

It is the opinion of this department that Sections 50.670 to 50.740, RSMo 1949, being the county budget law applicable to fourth class counties, contains no provision authorizing the fourth class county to vote a bond issue to retire unpaid county warrants, but Section 108.130, RSMo 1949, contains authority permitting a fourth class county to fund any judgment indebtedness resulting from the issuance of any unpaid county warrants.

Respectfully submitted,

JULIAN L. O'MALLEY  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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