



**FRANK WHITE, JR.**  
Jackson County Executive

December 22, 2017

Signing Statement from the County Executive

Ordinance 5052

TO THE JACKSON COUNTY LEGISLATURE:

Today I have signed Ordinance 5052, the annual appropriation order which provides the full and complete financial plan for Jackson County, Missouri's 2018 fiscal year. Despite my continued strong objection to certain provisions, I have signed and approved this Ordinance, with limited line-item vetoes,<sup>1</sup> because of the importance of avoiding a lapse in appropriations for the County Government. My Administration will continue to take appropriate actions and will work with the Legislature to mitigate the damage inflicted upon the County by their budgetary amendments.

State law and the county code require the adoption of an annual budget that presents "a complete financial plan."<sup>2</sup> In part, the budget is required to detail "all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions (. . .)"<sup>3</sup> In addition, such expenditures may only be classified "as to various spending agencies and the principal subdivisions of those agencies" while also including "the means of financing" for such expenditures.<sup>4</sup> Finally, and in accordance with applicable state laws and county code provisions, Ordinance 5052 specifically states that "effective immediately upon" my signature, the annual budget "set(s) forth appropriations for the various spending agencies and the principal subdivisions thereof, for the fiscal year ending December 31, 2018."<sup>5</sup>

In accordance with the above requirements, on November 15, 2017, my Administration provided the Legislature with an on-time, balanced and detailed budget for their consideration. The proposed budget provided for significant and long-overdue improvements to our facilities and operations, while also increasing the support we provide to our most important asset, our County Associates. On December 15, 2017, over the objections of three of its members, the Legislature approved Ordinance 5052. The approved amendments to my proposed budget have placed in

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<sup>1</sup> See below.

<sup>2</sup> § 50.550.1; see also Jackson County Code § 535.

<sup>3</sup> *Id.*; see also Jackson County Code § 535.1

<sup>4</sup> § 50.550.3; see also Jackson County Code § 537.3

<sup>5</sup> Ordinance 5052, 2017.



jeopardy most improvements that had been proposed. However, despite these changes, the approved budget does not provide for the reduction of appropriations from any fund.

I have chosen to issue the following line-item vetoes. The items enumerated below should be considered “objected to” in their entirety, in accordance with the Jackson County Charter:

1. Fund: General; Department: “Legislative Auditor”; 5010 “Regular Salaries” \$369,000; 5040 “FICA” \$28,229; 5050 “Pension” \$33,210; 5060 “Insurance” \$19,000.<sup>6</sup>
2. Fund: Health; Department: “Sheriff Emergency Preparedness”; 5010 “Regular Salaries” \$142,741; 5040 “FICA” \$10,920; 5050 “Pension” \$20,312; “Insurance” \$16,153; 6620 “Rent” \$33,900; 6641 “Copier Rental/Maintenance” \$5,000.<sup>7</sup>

As amended, this Ordinance does not provide adequate funding for numerous essential positions, many of which are currently filled. In particular, two current staff positions with the County Counselor’s office have been defunded as was the County’s Director of Collections. If the Legislature elects not to override my veto of the new funding for yet unfilled positions within the County Auditor’s office I will work with them to ensure these funds are used only for essential staffing. Furthermore, no funding saved by this action will be used by my Administration or have any impact on my Administrative staffing.

As amended, this Ordinance appears to transfer the County’s Office of Emergency Preparedness from the County Executive to the Sheriff. Such an action would violate state law, the County’s Charter, numerous executive orders and various contractual agreements. In particular, Missouri State law states that the County’s “executive officer” shall appoint a coordinator of emergency management, “subject to the direction and control of the executive officer (. . .).”<sup>8</sup> In addition, the Jackson County Charter provides the County Executive with the unique authority to create or abolish departments,<sup>9</sup> transfer employees,<sup>10</sup> appoint directors and officers not provided for,<sup>11</sup> and “be responsible for the administration of all affairs of the county placed in his or her charge (. . .) by law (. . .).”<sup>12</sup> If this veto is not overridden, I will support a legislative action that would immediately appropriate the necessary funds to ensure that the two current County Associates in the Office of Emergency Preparedness are able to remain employed by the County.

Of note, included within the legislative amendments are numerous references to “Reserve.” Funds that were originally earmarked for jail and courthouse improvements, existing staff salaries and to respond to unpredictable emergencies. Based upon the budgetary amendments, it appears that these funds have been shifted to these undefined “reserve” line-items. It should be noted that, had I signed Ordinance 5062 into law prior to the approval of this Ordinance, the

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<sup>6</sup> See 2018 Budget Amendments, p 3.

<sup>7</sup> See 2018 Budget Amendments, p 5.

<sup>8</sup> See § 44.080 RSMo.

<sup>9</sup> See Jackson County Charter Article IV. § 11.

<sup>10</sup> See Jackson County Charter Article III. § 6.4.

<sup>11</sup> See Jackson County Charter Article III. § 5; 6.1; Article IV § 1; 3; 4; 6.

<sup>12</sup> See Jackson County Charter Article III. § 1; 5.

annual budget “would have run counter to” and been “contrary to the clear requirements of state law” according to the County Counselor.<sup>13</sup> While a veto override of 5062 would not have any impact on the county’s budget for 2018, I would implore the Legislature to reconsider any such action due to the potential damage it would most certainly cause in subsequent years.

Finally, the Jackson County Charter uniquely grants the County Executive with both the authority and responsibility to “execute and enforce the provisions” of the Jackson County Charter, ordinances, resolutions and applicable Missouri State laws.<sup>14</sup> Legislative efforts that significantly impede my executive and administrative authorities or to sufficiently staff County operations undermine the County Charter and the County Executive’s ability to exercise my Charter responsibilities and take care that the laws be faithfully executed.

In accordance with the Jackson County Charter and all other applicable laws, the Administration will construe, including without limitation, any references to reserve, COMBAT and emergency management, not to abrogate these Executive authorities, duties and responsibilities.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Frank White, Jr.", with a long horizontal flourish extending to the left.

Frank White, Jr.  
Jackson County Executive

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<sup>13</sup> See *attached* County Counselor Memorandum, December 22, 2017.

<sup>14</sup> Jackson County Charter Art. III, § 6.5.



## OFFICE OF THE COUNTY COUNSELOR

JACKSON COUNTY COURTHOUSE  
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### MEMORANDUM

TO: FRANK WHITE, JR.  
COUNTY EXECUTIVE

FROM: W. STEPHEN NIXON  
COUNTY COUNSELOR

*WSN*  
*ASD*

DATE: DECEMBER 22, 2017

RE: ORDINANCE 5062

You have asked for guidance from this office concerning the status of the above-referenced ordinance, adopted by the county legislature on December 15, 2017. You are particularly interested in whether this ordinance complies with Missouri's County Budget Law, sections 50.525 -- .745 of the Revised Statutes of Missouri. In our view, Ordinance 5062 runs afoul of at least two provisions of the State of Missouri's statutory County Budget Law.

Ordinance 5062, should it become effective, would create three "Reserve Funds" within Jackson County's financial system. Under this ordinance, monies in these reserve funds could only be expended after the adoption of a resolution by a supermajority of the county legislature. Proposed Jackson County Code section 525.2, contained in the ordinance, states "The County Legislature may by resolution at any time during the year, on the recommendation of the County Auditor or Budget Officer, authorize a transfer from a Reserve Fund to an appropriate expenditure account within the same fund, provided that any such resolution receives the affirmative vote of six members of the County Legislature." It is unclear to us whether this language contemplates the establishment of expenditure accounts within the various reserve funds, or the term "same fund" refers to the main county spending funds, general, health, park, special road and bridge, etc.

It is our view that proposed code section 525.2 is contrary to section 50.630, RSMo, for the same reasons that we determined in our opinion of November 8, 2017, that a provision of Ordinance 5038, originally adopted on October 30, 2017, was and is

contrary to that same section of The County Budget Law. As a reminder, section 50.630 provides as follows:

The county commission may authorize the transfer within the same fund of any unencumbered appropriation balance or any portion thereof from one spending agency under its jurisdiction to another; but this action shall be taken only on the recommendation of the budget officer and only during the last two months of the fiscal year, except that transfers from the emergency fund may be made at any time in the manner herein provided.

Under The County Budget Law, which is applicable in Jackson County for the reasons explained in the prior opinion, budgetary transfers such as are contemplated by proposed code section 525.2 of Ordinance 5062 can only be made upon the recommendation of the county budget officer (in Jackson County, the chief administrative officer pursuant to Executive Order 17-20), and only during the last two months of the fiscal year. To the extent that section 525.2 of Ordinance 5062 would allow transfers without the recommendation of the budget officer and/or during other months of the year, it is directly contrary to section 50.630 of The County Budget Law.

Additionally, section 50.550.1, RSMo, also a part of The County Budget Law, provides as follows:

The **annual budget 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. (Emphasis added)

Ordinance 5062, if finally enacted, would run counter to section 50.550.1's requirements that the annual county budget "present a complete plan" and "set forth all proposed expenditures." Rather, this ordinance would defer some budgetary decisions until later in the fiscal year, at the discretion of a supermajority of the legislature, contrary to the clear requirements of state law.

For these reasons, Ordinance 5062 is contrary to Missouri law, specifically sections 50.630 and 50.550.1, RSMo.