



COUNTY LEGISLATURE JACKSON COUNTY, MISSOURI

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MANUEL ABARCA IV
LEGISLATOR, 1ST DISTRICT

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February 5, 2024

Mr. Bryan Covinsky, County Counselor
Mrs. Whitney Miller, Chief Deputy County Counselor
415 E. 12th Street, 2nd Floor
Kansas City, Missouri 64106

Bryan and Whitney:

BRYAN COVINSKY'S MEMORANDUM

In response to the memo from Bryan Covinsky dated January 29, 2024 regarding Ordinance #5824, I concur with your opinion that states RSMo 205.210 prohibits Jackson County from appropriating money from the General Fund for county hospital clinical purposes. But RSMo 205.210 does not appear to prohibit the use of General Funds for the construction of a non-clinical health care facility.

You cited RSMo 205.160 "that County Health Funds are to be used to establish, construct, equip, improve, extend repair and maintain public hospitals and engage in health care activities..." However, this statute does not apply, as evidenced by its title: "**Establishment and maintenance of hospitals – bonds.**" It reads, "... to establish, construct, equip, improve, extend, repair and maintain public hospitals and engage in health care activities, and may issue bonds therefor as authorized by the general law governing the incurring of indebtedness by counties."

I take exception to your statement that the County Executive is the Budget Officer for Jackson County, Missouri. Article III, Section 5 of the Constitutional Home Rule Charter reads: "The County Executive may appoint a staff as may be authorized by county ordinance, **and shall appoint a budget officer**, who shall have all the powers and duties prescribed by law and by county ordinance, all of whom shall serve at his or her pleasure. Article IV, Section 4 does name the County Executive in a different capacity, as purchasing agent, as it reads: "As purchasing agent, the County Executive or his or her designee shall perform such services as are required by this charter or law." Additionally, Section 222 of the Jackson County Code authorizes the appointment of a budget officer to be made by the County Executive and Ordinance #4206 sets the salary range for the Budget Officer. Therefore, it is clear that the County Executive is **not** the Budget Officer for Jackson County.

I also take exception to your opinion with regards to RSMo 50.630 which is not applicable because it speaks to “the transfer of unencumbered appropriations balance” but Ordinance #5824 refers to an “appropriation”.

- An **encumbrance** is defined as “the commitment of appropriated funds to purchase an item or service prior to actual payment. To encumber funds means to set aside or commit funds for a specified future expenditure. Funds are generally encumbered once a contractual obligation has been entered.”
- An **appropriation** is defined as “the legal authorization granted by the Jackson County Legislature permitting the County to incur obligations and to make expenditures for specific purposes.”

Both definitions may be found in the glossary of Jackson County’s budget book. Furthermore, Article II, Section 16, (6) states the County Legislature has the authority to “adopt a budget and appropriate money for the payment of debts and expenses of the county and for any public purpose.”

WHITNEY MILLER’S EMAIL

In response to the email from Whitney Miller dated January 26, 2024, as previously referenced above, **the County Executive is not the Budget Officer.**

Additionally, RSMo 205.230 does not apply to Jackson County because Jackson County is a first-class charter county, although RSMo 205.210 does apply. In the Attorney General’s Opinion No. 47-88, it clearly states: “Section 205.210 applies only to counties of the first class having a charter from of government. Section 205.210 was enacted subsequent to Section 205.230 and applies only to one particular type of county while Section 205.230 has general applicability to all counties exercising the rights conferred by Sections 205.160 to 205.340, RSMo. ...Section 205.230 authorizes the county commission to appropriate each year, in addition to the tax for the hospital fund, not exceeding five percent of its general fund for the improvement and maintenance of any public hospital established pursuant to Sections 205.160 to 205.340 RSMo. With respect to the conflict between these two sections, we find no way to harmonize the conflicting provisions and conclude that the more recently enacted provision of Section 205.210 applying to a particular type of county prevails over the earlier enacted Section 205.230 which has general applicability. Pursuant to Section 205.210 Jackson County is prohibited from appropriating money from its general revenue for county hospital purposes.” Furthermore, Section 205.210 does not expressly prohibit the appropriation of monies from the General Fund for the construction of a non-clinical health care facility.

Respectfully,



Manuel Abarca IV
County Legislator – 1st District