



JACKSON COUNTY
Office of the County Counselor

Jackson County Courthouse-2nd Floor
415 East 12th Street
Kansas City, MO 64106

MEMORANDUM

TO: JACKSON COUNTY EXECUTIVE
JACKSON COUNTY LEGISLATURE

FROM: BRYAN COVINSKY
COUNTY COUNSELOR

DATE: JANUARY 29, 2024

RE: LEGAL ISSUES RAISED BY PROPOSED ORDINANCE 5824

This memorandum is written to address legal concerns that have arisen in connection with proposed Ordinance 5824, an ordinance appropriating \$22,000,000.00 from the undesignated fund balance of the General Fund and authorizing the construction of a new Health Science building for use by University Health. The questions at issue are listed below, followed by our analysis and answers.

1. Is Proposed Ordinance 5824 in compliance with state law?

Upon review of Missouri statutes it is my position that, as written, Ord. 5824 is in violation of RSMo 50.630 which requires that these expenditures be recommended by the Budget Officer, who is the County Executive. Specifically, the statute states:

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.

As this expenditure has not been recommended by the County Executive, nor is it an emergency transfer of funds, Proposed Ordinance 5824 would not be in compliance with RSMo 50.630.

Additionally, Proposed Ordinance 5824 is in violation of RSMo 205.210 which states that a County which chooses to use a Health Fund cannot spend any funds out of the General Fund for the intended purposes of the Health Fund. This statute states:

The governing body in all counties of the first class having a charter form of government, in addition to the power to levy taxes for county purposes as otherwise provided by law, shall have the power to levy upon all real and tangible personal property in the county an annual tax in an amount not to exceed thirty-eight cents on each one hundred dollars valuation for the purpose of operating, maintaining or supporting a public county hospital or public hospital system or for the maintenance of county patients in state institutions, public hospitals, or other hospitals and for the purpose of operating or maintaining a public county health center or institution and conducting public health programs. The proceeds of the tax shall be used for such purposes and for no other purposes, and no funds from the general revenue of the county shall hereafter be appropriated for such purposes.

RSMo 205.160 specifies 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...” Thus, the Proposed Ordinance’s purpose of building a new Health Science building for University Health falls within the limited purposes of the Health Fund.

This position is further supported by an Attorney General’s Opinion, number 47-88, which states that “it is the opinion of this office that Section 205.10, RSMo 1986, prohibits Jackson County from appropriating money from its general revenue for County hospital purposes.”. For these reasons, it is the opinion of the County Counselor’s Office that Ordinance 5824 is in violation of Missouri statute.

In essence, it is not a lawful exercise of legislative power to recommend such a budget transfer, nor would the use of the funds in such a manner be authorized under Missouri law.