



COUNTY LEGISLATURE  
JACKSON COUNTY, MISSOURI

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MANUEL ABARCA IV  
LEGISLATOR, 1ST DISTRICT

JACKSON COUNTY COURTHOUSE  
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EASTERN JACKSON COUNTY OFFICE  
201 W. Lexington, Suite 201  
Independence, Missouri 64050

TO: Frank White Jr, County Executive  
Bryan O Covinsky, County Counselor

FROM: DaRon McGee, Legislative Chair *DM*  
Manny Abarca IV, Budget Committee Chair *MA*

DATE: February 13, 2023

RE: Legal Issue Raised by Ordinance 5701  
2023 Jackson County Budget

In response to the Signing Statement from the County Executive for Ordinance 5701 and the County Counselor's opinion attached, the Budget Committee Chair disagrees with their claims that the budget amendment violates provisions of the County Code and State law.

County Executive – American Rescue Plan

“Chair Abarca...the amendment would move all \$74 million into undesignated fund balance...” Unfortunately, the County Code of Ordinances and State Law prohibit this type of “budgeting” and this specific action was a focus of the Missouri State Auditor in 2020.”

“State law and the Jackson County Code both require that the county’s annual budget “present a complete financial plan for the ensuing budget year.”

RESPONSE

There is not an existing County Code or State law prohibiting the county from moving funds in part or in whole to the undesignated fund balance. We challenge the County Executive’s claim that once it is presented to the Legislature it cannot be changed without violating County Code Section 535 and Section 50.550, RSMO. This runs counter to the following County Code and State law sections:

- Jackson County Code Section 530.1 states, “Appropriation ordinances based on the recommended budget with modifications as the County Legislature considers advisable...”

- Section 50.610, RSMO states “After the budget hearings, the County Commission may revise, alter, increase or decrease the items contained in the budget and may eliminate any item or add new items...”

County Code Section 530.1 and Section 50.610, RSMO, cited above, makes it clear that the County Legislature is not a rubber stamp of the budget recommended by the County Executive.

- The Missouri State Auditor stated, “When the County Legislature approves these undesignated fund transfers, it is effectively amending its budget without the existence of new revenues and thus, should follow the same procedure required for adopting the original budget, including holding a public hearing.”

We will abide by the recommendation from the Missouri State Auditor.

### County Counselor

Section 50.550, RSMO and Section 535. of the Jackson County Code both require the County annual budget to “present a complete financial plan for the ensuing fiscal year...” budget recommended appropriation of some 74.7M of the American Rescue Plan (ARPA) fund. The floor amendment leaves the entire amount in the funds undesignated fund balance. This is a clear violation of the State and code mandates that the budget present a “complete plan”.

### RESPONSE

The budget does present a “complete plan”, as amended. We disagree with the statement that, “This is a clear violation of the statutory and code mandate that the annual budget present a “complete plan”, without availing himself of the following sources:

- County Code Section 530.1 states “Appropriation Ordinance based on the recommended budget with the modification as the County Legislature considers advisable...”
- Section 50.610, RSMO, “after the budget hearings, the County Commission may revise, alter, increase or decrease the times contained in the budget and may eliminate any item or add new items.
- Coates’ Canons NC Government Law – American Rescue Plan Act of 2021 (ARP): Accepting Funds, Budgeting & Cash Management. “Budgeting ARP Funds – Once the local government accepts the funds, does the board (Legislature) need to immediately budget the ARP monies? The legal answer to this question is no. If the board accepts the

funds but takes no budgetary action, the ARP funds are restricted fund balance (for legal purposes) until budgeted by the board."

Based on the sources noted above, we contend the Legislature has not violated any statutory or code mandates claimed by the County Counselor.

#### County Counselor

"...the Legislature increased the appropriation of the Health Fund to \$32,006,301. This increase violates Section 532. of the County Code..."

#### RESPONSE

We increased the total Health Fund appropriation from \$30,006,301 to \$32,006,301 by reducing undesignated fund balance by \$2,000,000. Section 532. of the County Code does not apply to fund balance as follows:

- Article VI, Section 26(a) of the Missouri Constitution provides:  
No County, City, Incorporated town or village, school district or other political corporation or subdivision of the State shall become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balances from previous years, except as otherwise provided in the constitution.

"This Language is consistent with an interpretation that previous years fund balances are not to be included when calculating income and revenue for the purposes of determining compliance with Section 532 of the County Code."

532. Appropriations, Limitation On. The County Legislature shall not increase the total appropriation from any fund as proposed by the County Executive in the budget so that the total appropriations shall exceed ninety-five percent (95%) of the income and revenue as estimated by the County Executive in the budget. (Ord 11, Sec. 3.59, Eff 1-1-1973)

#### Conclusion

We believe the Legislature has acted well within its legal authority in amending budget Ordinance 5701.



## MARY JO SPINO

### CLERK OF THE COUNTY LEGISLATURE

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State of Missouri }  
County of Jackson } S.S.

I, Mary Jo Spino, Clerk of the County Legislature, within and for the County of Jackson, do hereby certify that Ordinance #5701 was adopted by the County Legislature on January 30, 2023. The County Executive sent a signing statement with limited line-item vetoes on February 8, 2023 and a corrected statement on February 14, 2023.

The following line-item vetoes were **overridden** by a two-thirds vote of the Legislature on February 14, 2023.

Line item #1 – funding for the Department of the Legislative Auditor

Roll Call: Yes: 6 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, and DaRon McGee

No: 3 – Jalen Anderson, Jeanie Lauer, and Sean E. Smith

Line item #5 – funding for the Department of Compliance

Roll Call: Yes: 6 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, and DaRon McGee

No: 3 – Jalen Anderson, Jeanie Lauer, and Sean E. Smith

Line item #9 – funding for the Department of the Clerk of the County Legislature

Roll Call: Yes: 6 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, and DaRon McGee

No: 3 – Jalen Anderson, Jeanie Lauer, and Sean E. Smith

Line item #15 – funding for the Department of the Legislature as a Whole

Roll Call: Yes: 7 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, Sean E. Smith, and DaRon McGee

No: 2 – Jalen Anderson and Jeanie Lauer

Line item #19 – funding for the Department of the Legislature as a Whole

Roll Call: Yes: 6 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, and DaRon McGee

No: 3 – Jalen Anderson, Jeanie Lauer, and Sean E. Smith

Line item #22 – funding for the Department of the Legislature as a Whole

Roll Call: Yes: 6 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, and DaRon McGee

No: 3 – Jalen Anderson, Jeanie Lauer, and Sean E. Smith

Line item #24 – funding for the Department of the Legislature as a Whole

Roll Call: Yes: 7 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, Charlie Franklin, Sean E. Smith, and DaRon McGee

No: 2 – Jalen Anderson and Jeanie Lauer

The following line-item vetoes were **sustained** by the Legislature on February 14, 2023.

Line item #29 – funding for Organization 9000 – Outside Agencies

Roll Call: Yes: 5 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, and DaRon McGee

No: 4 – Jalen Anderson, Charlie Franklin, Jeanie Lauer, and Sean E. Smith

Line item #25 – funding for Mattie Rhodes

Roll Call: Yes: 5 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, and DaRon McGee

No: 4 – Jalen Anderson, Charlie Franklin, Jeanie Lauer, and Sean E. Smith

Line item #26 – funding for Samuel U. Rodgers Health Center

Roll Call: Yes: 5 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, and DaRon McGee

No: 4 – Jalen Anderson, Charlie Franklin, Jeanie Lauer, and Sean E. Smith

Line item #27 – funding for Footprints, Inc.

Roll Call: Yes: 5 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, and DaRon McGee

No: 4 – Jalen Anderson, Charlie Franklin, Jeanie Lauer, and Sean E. Smith

Line item #28 – funding for Heartland Behavioral Health

Roll Call: Yes: 5 – Donna Peyton, Megan L. Marshall, Manuel Abarca IV, Venessa Huskey, and DaRon McGee

No: 4 – Jalen Anderson, Charlie Franklin, Jeanie Lauer, and Sean E. Smith

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said County, at my office in Kansas City, Missouri this 14<sup>th</sup> day of February, 2023.



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Mary Jo Spino  
Clerk of the County Legislature

