



COUNTY LEGISLATURE JACKSON COUNTY, MISSOURI

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MEMORANDUM

TO: Frank White Jr., Jackson County Executive

FROM: Manuel Abarca IV, Jackson County Legislature Budget Chairman

CC: County Legislature, Troy Schulte, Jackson County Administrator, Caleb Clifford, Jackson County Chief of Staff

DATE: December 11, 2023

SUBJECT: Response to the Jackson County Executive's Letter on December 8, 2023

The County Executive questions the Legislatures legal authority to exercise its legislative right to amend the recommended budget he submitted to the Legislature on November 15, 2023 (Ordinance No. 5815).

The County Executive alleges the Legislature violated state law and county codes by amending the budget. He does this without citing one specific state statute or county code that has been violated. In addition, he states "State legislation explicitly requires us to adopt a comprehensive financial plan each year and categorically prohibits the allocation of funds to an undesignated fund balance for later appropriation." The County Executive letter is rife with wild accusations that state statutes and county codes are being violated without providing any evidentiary documentation to support his baseless claims.

The fact is, there is no existing state statute or county code that prohibits the Legislature from amending the budget or transferring proposed budgetary items to the undesignated fund balance by fund.

The Jackson County Charter Article VIII Budget,

- Section 1. "The County Executive shall submit to the County Legislature an annual budget..."
- Section 2. The County Legislature may enact further requirements concerning the budget and financial affairs of the County by Ordinance, which shall be covered by this Charter and the Constitution of the State of Missouri.

The Jackson County Code and state law explicitly empowers the County Legislature with the authority to amend the budget recommended by the County Executive, as noted below:

- Jackson County Code, Section 530.1 states, “appropriations 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 reverse, alter, increase or decrease the items contained in the budget and may eliminate any item or add new items.”

Former County Counselor, W. Stephen Nixon in an opinion dated October 30, 2017, to the County Legislature and County Executive stated, “this office has previously opined that the state law provisions governing county finances, sections 50.525-.745, RSMO, known as the “The County Budget Law”, does generally apply in Jackson County.”

The County Code Section 530.1 and Section 50.610, RSMO, makes it clear that the Legislature has the authority to amend the budget and not serve as a rubber stamp of the budget presented by the County Executive.

The County Executive questions the legitimacy of an amendment that “introduces allocation of funding that were not part of the initial budget proposed by my office.” He further states that this “...constitutes a deviation from the legal and procedural standards...” Such unsubstantiated and inflammatory claims that legal and procedural standards are being violated, are simply not true.

Since the County Executive failed to appropriate American Rescue Plan Act (ARPA) funds or to even disclose the undesignated (restricted) fund balance amount of these funds in the 2024 budget, the Legislature exercised its rights to appropriate a substantial part of these funds in accordance with the following county code:

- Jackson County Code, Section 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.

Former County Counselor, Thomas Larsen, in an opinion dated June 20, 1991, states “section 532 seeks to increase an appropriation proposed by the County Executive and does not constitute a general limitation that only 95% of income and revenue estimated by the County Executive can be appropriated.”

According to Kara A. Millonzi, the lead faculty for LEAD for North Carolina who earned a bachelor’s degree, *summa cum laude*, from the University at Buffalo and a master’s degree in economics from the University of Maryland at College Park as well as a J.D. with highest honors, Order of the Coif, from UNC-Chapel Hill, states that “Once the local government accepts the funds, does the board 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. Having said that, a local government will be well-served by setting up a budget structure for these funds even before it makes specific appropriation decisions. Adopting a budget structure early on may help the local government better manage the ARP monies and comply with reporting requirements. And, of course, no ARP monies may be obligated or expended until they are properly budgeted by the board.”

In conclusion, notwithstanding the County Executives inflammatory rhetoric that state law and county mandated codes have been violated, I have clearly demonstrated from my discourse above that his claims are totally without merit.

Sincerely,

Manny Abarca IV

Manuel Abarca IV
1st District Jackson County Legislator