



## COUNTY LEGISLATURE JACKSON COUNTY, MISSOURI

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### JACKSON COUNTY COURTHOUSE

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### INDEPENDENCE

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**DATE:** December 28, 2017  
**TO:** County Executive Frank White Jr.  
**FROM:** Legislature Chair Scott Burnett and Members of the Jackson County Legislature  
**SUBJECT:** Veto Override of Ordinance #5062

We have noted several fallacies in the County Executive's "Veto Message" dated December 22, 2017 which are highlighted in yellow in the attached response. We then provide a response to these fallacies in red.

We, the Legislature, are overriding the County Executive's veto of Ordinance #5062 based on the reasons clearly stated in the attached response.

#### Attachments:

Legislature's Response to County Executive's "Veto Message" dated December 22, 2017





FILED

DEC 22, 2017

MARY JO SPINO  
COUNTY CLERK

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

December 22, 2017

Veto Message from the County Executive

Ordinance 5062

TO THE JACKSON COUNTY LEGISLATURE:

I am returning herewith without my approval Ordinance 5062, which, most notably, would grant the County Legislature the unitary authority to transfer certain unencumbered county funds any time during the fiscal year, without the involvement or recommendation of the County's budget officer (chief administrative officer). Ordinance 5062 is in direct conflict with at least two provisions of Missouri's County Budget Law, and if approved, would be void.

This is not the Legislature's first attempt to circumvent Missouri Law regarding the transfer of funds. On November 8, 2017, I vetoed Ordinance 5038 due to the inclusion of a similar transfer provision to that of Ordinance 5062. Prior to that veto, the Jackson County Legislature received two memorandums regarding Ordinance 5038, from the County Counselor, Mr. Steve Nixon.<sup>1</sup> Within the first memorandum, Mr. Nixon stated on four occasions that he believed Ordinance 5038 was in conflict with State Law. Subsequently stating, in part, "(t)wo provisions of Ordinance 5038, (. . .) are in direct conflict with section 50.630, RSMo 2016, regarding inter-agency budget transfers." Concluding that, despite the Ordinance's passage, "a valid and proper inter-agency budget transfer continues to require the recommendation of the budget officer (chief financial officer) in all circumstances." <sup>2</sup>

**RSMO 50.630 states:**

50.630. County commissions shall have power to authorize the transfer of any unencumbered appropriation balance. — 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.

**Legislature's Response:**

1. **Ordinance #4206 adopted April 26, 2010 reads in part: "Whereas, Article III, Section 5 of the Charter and §222 of the Code authorize the appointment of a budget officer to be made by the County Executive; (...) with a salary range of \$53,726 – 88,629." Therefore, the Chief Administrative Officer/Chief Financial Officer cannot be granted the power and duties of the Budget Officer by Executive Order (Executive Order 17-20, dated November 3, 2017)**

**2. See the following State Statutes for definitions and authority of the County Auditor (Budget Officer).**

**RSMo 50.530 states:**

**50.530. Definitions. — As used in sections 50.530 to 50.745:**

(1) **"Accounting officer" means county auditor in counties of the first and second classifications and the county clerks in counties of the third and fourth classifications;**

(2) **"Budget officer" means such person, as may, from time to time, be appointed by the county commission of counties of the first classification** except in counties of the first classification with a population of less than one hundred thousand inhabitants according to the official United States Census of 1970 the county auditor shall be the chief budget officer, the presiding commissioner of the county commission in counties of the second classification, unless the county commission designates the county clerk as budget officer, and county clerk in counties of the third and fourth classification. Notwithstanding the provisions of this subdivision to the contrary, in any county of the first classification with more than eighty-two thousand but fewer than eighty-two thousand one hundred inhabitants, the presiding commissioner shall be the budget officer unless the county commission designates the county clerk as the budget officer.

**RSMo 55.010 states:**

**55.010. Office authorized (certain first class counties). — In all counties of the first class having a charter form of government there shall be a county auditor who is the budget officer and accounting officer of the county and who shall perform all the duties imposed by the county budget law upon the budget officer and accounting officer.** The county commission shall appoint and fix the compensation of some competent person as county auditor, who shall serve for a term of four years from and after the first day of January, 1947, and until his successor is duly appointed and qualified. In case of a vacancy in the office of county auditor caused by death, resignation or otherwise, the county commission shall appoint some qualified person for the unexpired term of the county auditor. The county commission shall employ and fix the compensation of clerical and other assistants to the county auditor necessary to enable him to efficiently perform his duties.

**RSMo 55.020 states:**

**55.020. Bond (certain first class counties). —** Before taking over his duties, the county auditor of a county of the first class having a charter form of government shall give bond to the county in such amount and with such surety as shall be required by the county commission. **The bond shall be conditioned upon the faithful performance by such county auditor of all those duties which are imposed upon him by section 55.030, and by chapter 50,** and which are or may hereafter be imposed upon him by any other statutory provision relating to county auditors. The cost of the bond shall be paid from the general revenue fund of the county.

**RSMo 55.030 states:**

**55.030. To prescribe accounting system — other duties (certain first class counties). — The county auditor of a county having a charter form of government shall prescribe, with the approval of the governing body of the county and the state auditor, the accounting system of the county. He shall keep accounts of all appropriations and expenditures made by the governing body of the county;** and no warrant shall be drawn or obligation incurred without his certification that an unencumbered balance, sufficient to pay the same, remains in the appropriation account against which such warrant or obligation is to be charged. He shall audit and examine all accounts, demands, and claims of every kind and character presented for payment against such county, and shall approve to the governing body of the county all lawful, true, and just accounts, demands, and claims of every kind and character payable out of the county revenue or out of any county funds before the same shall be allowed and a warrant issued therefor. Whenever the county auditor deems it necessary to the proper examination of any account, demand, or claim, he may examine the parties, witnesses, and others on oath or affirmation touching any matter or circumstance in the examination of such account, demand, or claim. At the direction of the governing body of the county, he shall audit the accounts of all officers and employees of the county and upon their retirement from office and shall keep a correct account between the county and all county officers; and he shall examine all records and settlements made by them for and with the governing body of the county or with each other; and the county auditor shall, at all reasonable times, have access to all books, county records, or papers kept by any county or township officer, employee, or road overseer. He may keep an inventory of all county property under the control and management of the various officers and departments and shall annually take an

inventory of any such property at an original value of one thousand dollars or more showing the amount, location and estimated value thereof. He shall perform such other duties in relation to the fiscal administration of the county as the governing body of the county shall from time to time prescribe. The county auditor shall not be personally liable for any costs for any proceeding instituted against him in his official capacity.

Today, I received a memorandum from the County Counselor regarding Ordinance 5062's lack of compliance with Missouri Budget Law. In accordance with his earlier opinions, the County Counselor determined that Ordinance 5062 would violate Missouri County Budget Laws transfer requirements. **Additionally, State Law requires that the annual county budget "shall present a complete financial plan" which sets forth "all proposed expenditures" for the upcoming budget year.** Ordinance 5062 delays critical budget-making decisions, with a supermajority vote of the Legislature, until later in the fiscal year. In the opinion of the County Counselor, this provision is "contrary to the clear requirements of the law."<sup>3</sup>

**Legislature's Response:**

**RSMo 50.610 states:**

**50.610. Commission may revise budget — adoption and appropriation order. — 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.** If it increases the total proposed expenditures from any fund so that the total proposed expenditures exceed the total estimated income, it shall also make provision for the necessary additional income so that the budget as adopted shall provide revenue at least equal to expenditures for each fund. Any cash surplus at the end of any fiscal year shall be carried forward and merged with the revenues of the succeeding year. Payment of any legal unpaid obligations of any prior year, however, shall be a first charge in the budget against the revenues of the budget year. Except as herein provided, the budget shall be adopted and the appropriation order finally made at least ten days after the beginning of the fiscal year. At the same time, the county commission shall tentatively fix the tax rate necessary to finance and balance the budget. At the same time, also, a statement shall be prepared and made public showing the changes made by the county commission in the budget. The final tax rate need not be fixed until final action by the state tax commission on the assessment made by the county assessor. In any year in which the terms of any of the commissioners of the county commission in counties of classes one and two expire, the budget shall be approved and the appropriation order made by the new commission within thirty days after the beginning of the fiscal year.

As I have stated before, putting into the hands of a single branch of government the power to transfer such amounts of taxpayer dollars during the fiscal year without any check to that power is once again not only bad public policy, but is also contrary to the law.

For the foregoing reasons, Ordinance 5062 has earned my veto.

**Legislature's Response:**

**Based on the reasons clearly stated above, we, the Legislature, are overriding the County Executive's veto of Ordinance #5062.**

Respectfully submitted,



Frank White, Jr.  
Jackson County Executive

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<sup>1</sup> See Attached.

<sup>2</sup> See Attached.

<sup>3</sup> See Attached .