



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

August 1, 1975

ATTORNEY GENERAL OPINION NO. 75-310

Re: Counties--Expenditures--Monthly Expenditures

Synopsis: The monthly publication of a statement of all county expenditures must include by itemized description an identification of each and every sum allowed, and the purpose of each such disbursement. Description of sums allowed by totals according to general classifications and categories is inadequate.

* * *

TO ALL COUNTY COMMISSIONERS AND COUNTY ATTORNEYS:

The question has once again been presented to this office whether the requirement of K.S.A. 19-228 that a monthly statement be published of "all sums of money allowed, and for what purpose," is satisfied by a statement of total amounts allowed according to general classifications or categories. Every Attorney General who has considered this question in the last fifteen years has agreed that the statement required is a detailed one, reporting each and every sum allowed by the board of county commissioners, and the purpose of each such disbursement. I fully agree with that interpretation, and reiterate, once again, that it is mandatory that every board of county commissioners cause to be made a detailed and itemized statement as required by this statute.

This requirement has been the subject of disagreement in a number of counties in the state in recent years. We are advised that in the only decided case involving this statute, the Pratt County District Court held that detailed itemization of expenditures was required, and a summary statement of total allowances, described only by general categories, was inadequate.

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The statute is often criticized, we are aware, as requiring an unnecessary expenditure of money annually for publication of data which is already of public record, and available for inspection by any interested citizen at the county courthouse. It has also been criticized as discriminatory, in that only counties must make the required publications, while other taxing subdivisions, such as cities, school districts and others, are not. Conversely, the statute has been defended on the ground that as a practical matter, many citizens lack the time and opportunity to inspect the public records in county offices to scrutinize public expenditures, and that the mandatory public exposure of county expenditures discourages spendthrift public officials from questionable extravagance. These are arguments which must be addressed to the legislature. So long as the statute remains in force, every board of county commissioners is bound by law to comply with it. No official is free to nullify a legal requirement merely on the ground of convenience and expedience.

Accordingly, I cannot but join in the opinions previously issued on this statute by my predecessors in this office, and conclude that K.S.A. 19-228 is satisfied only by publication of statements detailing all sums of money allowed by the board, identifying each sum allowed and the purpose of each such disbursement. I attach hereto previous opinions on this identical question, issued by Attorneys General William Ferguson, Robert Londerholm, and Vern Miller.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

Enclosures



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VERN MILLER
Attorney General

May 28, 1971

Mr. John D. Montgomery
Director of Highways
State Office Building
Topeka, Kansas

Dear Mr. Montgomery:

You inquire whether under K.S.A. 19-228 county commissioners are required to publish in detail a monthly report of county expenditures. Opinions of the Attorney General issued in the past ten years have consistently held that the statute requires publication of an itemized statement of sums of money allowed by the board of county commissioners rather than a statement of total amounts allowed by general classifications. Attorney General Ferguson so held in Opinion No. 61-318, dated September 18, 1961. In an opinion letter dated March 20, 1968, Attorney General Londerholm stated his concurrence in the earlier opinion. He noted further that the legislature must be deemed to have long-standing notice of the construction put upon the statute by the Attorney General and that, having amended other provisions of Article 2 of Chapter 19 of the Kansas statutes, but not 19-228, it must be deemed to have approved the earlier construction.

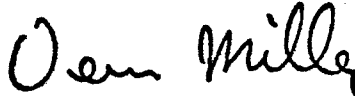
Further evidence of the legislature's intention is its enactment in 1969 of K.S.A. 19-609, which provides in pertinent part thus, respecting counties of over 40,000 population:

"The auditor shall cause to be published in the paper in which the county printing is done, an abstract of his monthly reports, showing generally the amounts allowed, to whom and on what account and specifying each amount over ten dollars (\$10). . ."

In view of the apparent, tacit approval by the legislature of the construction given K.S.A. 19-228 by previous Attorneys General, and its recent enactment of similarly restrictive legislation,

K.S.A. 19-609, the question you present is no longer an open one. Accordingly, we cannot but conclude that K.S.A. 19-228 requires publication of itemized statements of sums allowed by the county commissioners, and that statements of total amounts allowed by general classification do not comply with the statute.

Yours very truly,

A handwritten signature in cursive script that reads "Vern Miller".

VERN MILLER
Attorney General

JRM:sbs



STATE OF KANSAS

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March 20, 1968

Honorable Ed L. Kessinger
Representative 56th District
P. O. Box 328
Junction City, Kansas 66441

Dear Mr. Kessinger:

We have re-examined K.S.A. 19-228, which requires the county commissioners to publish a statement in some paper of general circulation in the county of the purposes and sums of money allowed. We are in concurrence with our earlier opinion dated September 18, 1961, in that we find K.S.A. 19-228 requires an itemized statement of the amounts and purposes of all moneys allowed by the county commissioners.

We note that since the publication of our earlier opinion, Article 2 of Chapter 19 in the Kansas Statutes Annotated dealing with the duties of county commissioners has been amended in other respects. However, K.S.A. 19-228 has not been amended. Since the legislature has had long standing notice of this interpretation of the statute, and has enacted amendatory legislation of this same article but has made no change in the particular statute 19-228, we feel this further reinforces said interpretation.

Indeed, since the patent purpose of this statute is to inform the citizens of any given county of the amounts and purposes

of fiscal expenditures, it would appear that without an itemization no definitive understanding could be had of the fiscal operations of the county and the publication would accomplish no purpose.

We are enclosing a copy of September 18, 1961, opinion.

We hope this information will be of assistance to you.

Very truly yours,

ROBERT C. LONDERHOLM
Attorney General

REO/k1

Enclosure

Op. 61-318

Opinion No. 61-318

September 13, 1961

ATTORNEY GENERAL'S OPINION

Re: Counties - Expenditures - Published
Statements thereof - G. S. 1949, 19-228

Request by: Bernard D. Nordling, County Attorney
Eugoton, Kansas

Question: Does G. S. 1949, 19-228 require an
itemized statement of sums of money
allowed by the board of county
commissioners rather than a statement
of total amounts allowed by general
classifications?

Answer: Yes.

Said statute provides in pertinent part as follows:

"The board of county commissioners shall
cause to be published a statement, at the
close of every regular or special meet-
ing, of all sums of money allowed, and
for what purpose. . . ."

A search of the Kansas decisions does not reveal a single instance where the Court considered the sufficiency of the statement required by said statute. The legislature made no attempt to define the terms used in the statute so it must be concluded the legislature assumed the terms to be so well understood there was no need to define them.

The above statute was originally enacted as Chapter 28, Section 1 of the Laws of 1865. It has remained unchanged since that time and the act's title was simply, "An Act to regulate county affairs." Thus, the available legislative history sheds very little light on our question. As a general proposition it may be advanced that under our system of government, wherein elected representatives are accountable to the people, the publication of an itemized statement of moneys allowed will better promote and inform the electorate than will a general classification of expenditures. The purpose of a published statement would become meaningless to the majority of the electorate if only total amounts expended by general classifications were set forth. In order to preserve the right of the people to know what is going on in their county government it is necessary that they be informed of the expenditures of the board of county commissioners and this may best be done by publication of an itemized statement.

The dictionary definitions of the terms used in the act are of a general nature and give no obvious answer to the above question. Hence, it would appear that the terms should be taken at their face value and in their most generally accepted usage. The statement required by the statute is of "all" sums of money allowed and for "what purpose." Certainly the specific purpose for which one person may be allowed a payment of county funds is not the identical specific purpose for which another person may receive such an allowance. Likewise each purchase for which a separate warrant is issued is a distinct item and would constitute the only specific purpose of that kind. Hence, when the legislature said "all sums" it may clearly be concluded they intended a statement of each and every warrant issued.

The only mention of this statute to be found in other statutes is in G. S. 1959 Supp., 19-211 which is as follows, to-wit:

". . . . That when property of the county of the value of less than twenty thousand dollars (\$20,000) is sold, the board of county commissioners shall cause to be

published as a part of the statement required by section 19-228 of the General Statutes of 1949 a detailed account of such sale which shall describe the property sold, to whom sold, and the sale price. . . ."

It is noted that the statement required here is a detailed one setting forth a description of property, person and amounts. By association it may be inferred that the legislature in requiring the above statement to be published as a part of the section 19-228 statement was putting similar statements together in the same publication.

WILLIAM M. FERGUSON
Attorney General

LDJ:mb