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December 12, 1979

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ATTORNEY GENERAL OPINION NO. 79-289

Mr. Dan E. Turner  
City Attorney  
City Building  
215 E. 7th Street  
Topeka, Kansas 66603

Re: Cities and Municipalities--General Provisions--  
Presentation, Audit and Approval of Claims

Synopsis: K.S.A. 12-105b (as amended, L. 1979, ch. 186, §18) clearly requires the governing body of a municipality to make final determinations for approval or disapproval of claims against the municipality. A city employee appointed by a city commissioner is not an "officer . . . charged by law to approve claims" within the meaning of the statute.

\* \* \*

Dear Mr. Turner:

You have asked for our interpretation of K.S.A. 12-105b (as amended by L. 1979, ch. 186, §18), particularly the last paragraph thereof, which provides as follows:

"Except for claims presented to a unified school district, before any liquidated claim is presented to the governing body it shall be audited by the clerk, secretary, manager, superintendent, finance committee or finance department or other officer or officers charged by law to approve claims affecting his, her or its area of government, and thereby approved in whole or in part as correct, due and unpaid." (Emphasis in original; indicates material added to existing section.)

You first inquire whether this paragraph requires that all claims against a municipality be formally presented to the governing body for final approval, or whether the approval of the claim by one of the officers designated by the statute is sufficient approval. In our judgment, the statute clearly requires the governing body of the municipality to make the final determination for approval or disapproval of claims against the municipality.

The statute designates certain officers who are empowered to audit and to approve claims "affecting his [or] her . . . area of government" for a determination that such claims are "approved in whole or in part as correct, due and unpaid." The word "audit" is defined by subsection (g) of K.S.A. 12-105a [as amended, L. 1979, ch. 186, §17(g)] to mean "to examine and render an opinion as to allowance or rejection in whole or in part." Thus, although the statute states that the designated officers "approve" claims affecting their particular governmental functions, it is our opinion that their power of approval is reasonably limited by the above-quoted definition of "audit." The auditing officer's authority is limited to an examination and recommendation thereupon whether a specific claim should be paid, and in what amount. Only the governing body has final authority to approve or disapprove claims.

Surely, the phrase "before any liquidated claim is presented to the governing body" has some meaning. Our interpretation of the statute gives effect to that phrase, and is guided by an important rule of statutory construction. We note that

"[i]n the interpretation of a statute, the legislature will be presumed to have inserted every part thereof for a purpose. Thus, it should not be presumed that any provision of a statute is redundant . . . . Indeed, it is a cardinal rule of statutory construction that significance and effect should, if possible, without destroying the sense and effect of the law, be accorded every part of the act, including every section, paragraph, sentence or clause, phrase, and word." 73 Am.Jur.2d Statutes, §250.  
(Footnotes omitted.)

Accord: Southeast Kansas Landowners Ass'n. v. Kansas Turnpike Authority, 224 Kan. 537 (1978); Farm and City Ins. Co. v. American Standard Ins. Co., 220 Kan. 325 (1976).

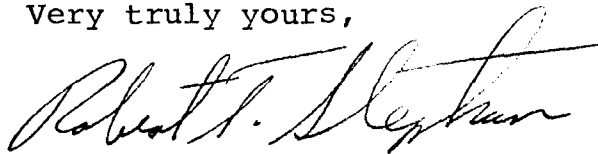
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Next, you inquire as to the meaning of the phrase "officer or officers charged by law to approve claims." You ask whether an employee in a particular commissioner's department, appointed by a commissioner, could be considered such an officer within the meaning of the statute. In our judgment, the statute cannot be so construed. We reach that conclusion for two reasons. First, an employee is not an "officer" as that term has been defined in Kansas law. See our discussion of relevant authority in Attorney General Opinion No. 79-256 (pp. 2-3), enclosed for your consideration. Moreover, an employee is not an "officer . . . charged by law to approve claims." The statute contemplates some legislative act, either statute or ordinance, requiring local officers to perform the designated functions.

As a practical matter, of course, the designated officer or officers will delegate certain analysis and bookkeeping functions to city employees for determination whether claims are due and payable. But, the clear import of the statute is that the ultimate responsibility for auditing of claims, and making determinations of the validity of claims, is imposed upon the officer or officers charged therefor, before such claims are presented to the governing body for approval and payment.

In summary, we conclude that K.S.A. 12-105b (as amended by L. 1979, ch. 186, §18) clearly requires the governing body of a municipality to make final determinations for approval or disapproval of claims against the municipality. Secondly, a city employee appointed by a city commissioner is not an "officer . . . charged by law to approve the claims" within the meaning of the statute.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General

RTS:WRA:SC:gk

Enclosure: Attorney General Opinion No. 79-256