



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 82- 1

Ms. Donna Mae Kaiser
Dickinson County Clerk
Box 248
Abilene, Kansas 67410

Re: Taxation--Budget Law--Certification of Tax Levies
and Adopted Budgets

Synopsis: K.S.A. 79-2930, as amended by L. 1981, ch. 379, §5, requires that two copies of the budget certificate, as well as two copies of the itemized budget forms for every fund and two copies of the proof of publication of the notice of budget hearing, be presented to the county clerk. The statute also requires that, after the budget is reviewed and attested by the county clerk, one set of the documents presented to the county clerk be filed with the director of accounts and reports. Cited herein: K.S.A. 79-2930 as amended by L. 1981, ch. 379, §5.

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Dear Ms. Kaiser:

You seek an opinion concerning the "proof of publication of the notice of budget hearing" a taxing subdivision is to present to the county clerk when filing the budget of the subdivision. Specifically, you inquire as to the number thereof and whether a copy of the proof of publication is to be filed with the Director of Accounts and Reports along with the copy of each taxing subdivisions' budget. Your inquiry is prompted by the amendment of K.S.A. 79-2930 by section 5 of chapter 379 of the 1981 Session Laws of Kansas, particularly subsections (a) and (b) thereof. These subsections provide:

"(a) Two copies of the budget certificate giving the amount of ad valorem tax to be levied and the total amount of the adopted budget of expenditures by fund, along with itemized budget forms for each and every fund and proof of publication of the notice of budget hearing containing the budget summary shall be presented to the county clerk within the time prescribed by K.S.A. 79-1801 as amended. Where action has been taken under any statute to increase the amount of tax to be levied authorized by law, a statement showing the increased amount or tax levy rate voted, or a copy of the charter resolution or ordinance making the change, shall be attached to the budget each year the change is in effect.

"(b) The county clerk shall make any reductions to the ad valorem tax to be levied, compute the tax levy rates based on the final equalized assessed valuation, and enter such on the budget certificate before attesting the budget. A copy of all budgets for taxing subdivisions of the county, properly attested, shall be filed with the director of accounts and reports, along with a copy of the tax levy rate summary required of the county treasurer by K.S.A. 79-2002, and amendments thereto." (Emphasis added.)

Your uncertainty as to the requirements of these new statutory provisions is quite understandable. It is not clear whether subsection (a) merely requires one copy of the itemized budget forms for each and every fund and one copy of the proof of publication, while requiring two copies of the budget certificate. It also is not clear whether "the budget" for each taxing subdivision includes the budget certificate and the proof of publication of notice of the budget hearing.

Moreover, the law fails to specify what the county clerk is to do with the documents that are "presented to" him or her under the provisions of subsection (a). These provisions also fail to specify what the county clerk is to do with a budget after the same has been attested.

In spite of this lack of specificity, we believe that the intent of the legislature was to require that each taxing subdivision "present to" the county clerk two copies of all documents relating to the budget of the taxing subdivision, and that, after

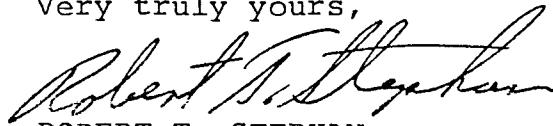
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reviewing these documents and attesting the budget, one copy of all those documents, plus a copy of the tax levy rate summary, be filed with the director of accounts and reports.

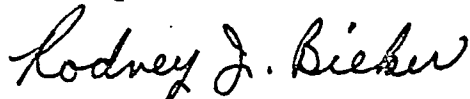
It is to be noted that, prior to this amendment, K.S.A. 79-2930 made it the duty of the taxing subdivision to certify one copy of the budget documents to the county clerk and another copy of those documents to the director of accounts and reports. Under those provisions, however, the copy certified to the director was not attested by the county clerk. It appears the legislature sought to ensure that the budget documents filed with the director were the final, attested documents.

Thus, in response to your inquiries, we are of the opinion that K.S.A. 79-2930, as amended by L. 1981, ch. 379, §5, requires that two copies of the budget certificate, as well as two copies of the itemized budget forms for every fund and two copies of the proof of publication of the budget hearing, be presented to the county clerk. The statute also requires that, after the budget is reviewed and attested by the county clerk, one set of the documents presented to the county clerk be filed with the director of accounts and reports.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
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RTS:BJS:RJB:jm