

STATE OF KANSAS

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August 17, 1988

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ATTORNEY GENERAL OPINION NO. 88-114

Ted D. Ayres
General Counsel
Kansas Board of Regents
Capitol Towers, Suite 609
400 SW Eighth St.
Topeka, Kansas 66603-3911

Re: Agriculture -- County Extension Councils, Boards
and Agents -- County Appropriations; Budget
Approval; Tax Levies

Synopsis: K.S.A. 1987 Supp. 2-610(b) does not mandate
action by the board of county commissioners within
10 days after initial receipt of a proposed
budget. If the proposed budget is not approved
within 10 days after its receipt, it should be
returned to the board in a timely manner. The
board may then resubmit it to the commission for
action according to the procedures set forth in the
statute. Cited herein: K.S.A. 1987 Supp.
2-610(b); 1987 House Bill No. 2394, L. 1987, ch.
61, § 1.

* * *

Dear Mr. Ayres:

As General Counsel for the Kansas Board of Regents, you
request our opinion on K.S.A. 1987 Supp. 2-610(b). You
specifically ask if the county commissioners fail to act on a
county extension council's proposed budget, or fail to return

the budget to the council's executive board within ten days after receipt, does the proposed budget become final.

K.S.A. 1987 Supp. 2-610(b) states:

"(b) If the commission does not approve the proposed budget within 10 days after receipt thereof, it shall return the budget to the board. Upon receipt of the returned budget, the board shall consider amendments or modifications and may consult with the commission concerning the budget. Within 10 days after receipt of the returned budget, the board shall resubmit its proposed budget, with or without amendment or modification, to the commission. Within 10 days after resubmission of the proposed budget, the commission shall approve, or amend or modify and approve as amended or modified, such proposed budget. The commission shall adopt the proposed budget as approved and shall make the same a part of the regular county budget. . . ."

(Emphasis added).

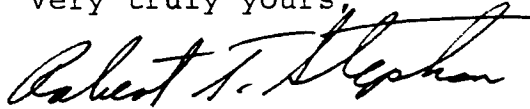
Enacted in 1987 (L. 1987, ch. 61, § 1), subsection (b) provides a new procedure whereby the budget of the county extension council is adopted. The previous statutory procedure provided for approval by three distinct entities; the board of county commissioner, the Kansas extension director and the chairperson of the executive board of the county extension council. K.S.A. 2-610(d) (L. 1979, ch. 3, § 1). K.S.A. 1987 Supp. 2-610(b) now vests ultimate approval authority in the board of county commissioners and provides the mandated procedure.

K.S.A. 1987 Supp. 2-610(b) discusses two submissions of a proposed budget; the initial submission and, if necessary, a resubmission. Subsection (b) states that "[i]f the commission does not approve the proposed budget within 10 days after receipt thereof, it shall return the budget to the board." This language does not mandate approval by the commission nor does it direct that non-action constitutes approval. It merely provides that if the proposed budget is not approved within a certain time period it shall be returned.

By contrast, language in subsection (b) dealing with resubmission of the budget dictates that "[w]ithin 10 days after resubmission of the proposed budget, the commission shall approve, or amend or modify and approve as amended or modified, such proposed budget." This language does direct the commission to take some kind of action, either to approve or amend or modify and approve, within a certain time period. The statute does not mandate such action on the initial submission of the proposed budget.

It is therefore our opinion that K.S.A. 1987 Supp. 2-610(b) does not mandate action by the board of county commissioners within 10 days after initial receipt of a proposed budget. If the proposed budget is not approved within 10 days after its receipt, it should be returned to the board in a timely manner. The board may then resubmit it to the commission for action, according to the procedures set forth in the statute.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Theresa Marcel Nuckolls
Assistant Attorney General

RTS:JLM:TMN:bas