



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 90- 125

Robert S. "Jack" Montgomery
Director of Division of Administration
Kansas Department of Commerce
400 S.W. 8th Street, 5th Floor
Topeka, Kansas 66603-3957

Re: State Boards, Commissions and Authorities--
Department of Commerce; Community Strategic
Planning Grant Commission--Agreement with Fort Hays
State University, Kansas State University, and the
University of Kansas; L. 1990, ch. 298, § 6

Synopsis: The secretary of commerce has the authority under
the community strategic planning assistance act to
enter into an agreement with Fort Hays state
university, Kansas state university, and the
university of Kansas to provide services to
city-county economic development organizations
which have been awarded a planning grant or an
action grant. The secretary of commerce may not
enter into an agreement for the providing of such
services with any entities other than Fort Hays
state university, Kansas state university, and the
university of Kansas. The agreement may not
include services provided to a city-county economic
development organization prior to award of a
planning grant or an action grant to such
organization. Cited herein: L. 1990, ch. 298, §
6; L. 1990, ch. 298, § 7.

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Dear Mr. Montgomery:

As director of the division of administration of the Kansas department of commerce, you request our opinion regarding the community strategic planning assistance act, L. 1990, ch. 298. Specifically, you ask whether the department of commerce has the authority to enter into agreements with Fort Hays state university (Fort Hays), Kansas state university (K-State), the university of Kansas (KU), or other service providers for services to be provided to a city-county economic development organization prior to the award of a grant to such organization.

"The fundamental rule of statutory construction is that the purpose and intent of the legislature governs when the intent can be ascertained from the statute. In construing statutes, the legislative intention is to be determined from a general consideration of the entire act." State v. Adee, 241 Kan. 825, 829 (1987). Under L. 1990, ch. 298, § 6(c):

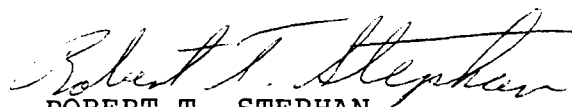
"The secretary of commerce may enter into an agreement with Fort Hays state university, Kansas state university, and the university of Kansas to provide services to city-county economic development organizations awarded grants to assist in developing, organizing and implementing community strategic plans in cooperation with cities and counties in the region and to encourage local initiatives to the greatest extent possible. Such services include, but are not limited to, the development of survey instruments, data analysis, facilitator training, report preparation assistance, on-site visitation and consultation services and followup and related services for the development of countywide economic development strategy plans." (Emphasis added.)


Where the language of a statute is plain and unambiguous, it is the responsibility of the court to give effect to the intent of the legislature as expressed, and not to rearrange the legislature's work to express what the court thinks the law should or should not be. Barber v. Williams, 244 Kan. 318, 324 (1989). The mention or inclusion of one thing implies the exclusion of others. State v. Wood, 231 Kan.

699, 701 (1982). Under L. 1990, ch. 298, § 6(c), the secretary of commerce is granted the authority to enter into agreements with Fort Hays, K-State and KU. While city-county economic development organizations can use grant proceeds for the acquisition of technical assistance for strategy development activities, identification of specific projects, and other related services from Fort Hays, K-State, KU, or other economic development service providers, see L. 1990, ch. 298, § 7, the secretary of commerce may enter into agreements for the providing of such services only with Fort Hays, K-State and KU. The secretary of commerce may not enter into agreements with "other service providers" for services to be provided to city-county economic development organizations.

Taking into consideration the plain and unambiguous language of the statute, an agreement into which the secretary of commerce may enter regards the providing of services to city-county economic development organizations which have been awarded a grant under L. 1990, ch. 298. The legislature has expressly provided for the awarding of two types of grants: planning grants for the development of county-city economic development strategy plans; and action grants for the implementation of such plans. See L. 1990, ch. 298, §§6(a) & (b). Fort Hays, K-State and KU are to provide services" to assist in developing, organizing and implementing community strategic plans." A list of services to be provided by Fort Hays, K-State and KU, although not exhaustive, consistently includes activities undertaken during the development and implementation of community strategic plans, activities occurring after the award of a grant. It is clear from the language of the statute that the services provided by Fort Hays, K-State and KU are to be provided to city-county economic development organizations which have been awarded a planning grant or an action grant by the department of commerce. The secretary of commerce is not authorized to enter into agreements for services to be provided to a city-county economic development organization prior to receipt of an award of a planning grant or an action grant by such organizations.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Richard D. Smith
Assistant Attorney General