



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

February 23, 1977

ATTORNEY GENERAL OPINION NO. 77-64

Mr. Dann L. Goode  
Greenwood County Attorney  
Greenwood County Courthouse  
Eureka, Kansas 67045

Re: Counties--Weed Supervisor--Appointment

Synopsis: Under K.S.A. 2-1316, a county must, acting alone or jointly with other counties, appoint a weed supervisor, subject to the approval of the secretary of the State Board of Agriculture. This requirement may not be displaced or superseded by the exercise of county home rule powers under K.S.A. 19-101a *et seq.*

\* \* \*

Dear Mr. Goode:

K.S.A. 2-1316 provides in pertinent part thus:

"The board of county commissioners of each county shall, and the governing body of any incorporated city or any group of counties or cities may, employ for a stated time each year, with the approval of the secretary of the state board of agriculture, a competent person as county, city or district weed supervisor."

You enclose a copy of your opinion of February 11, 1977, addressed to the Greenwood County Commissioners, concerning this statute,

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in which you conclude that a weed supervisor is required to be appointed under this provision, either by the county acting alone, or jointly with one or more other counties. I agree with your conclusion entirely. As you point out, failure to comply with any provision of the 1937 act is a misdemeanor which is punishable as provided in K.S.A. 2-1323.

You raise the further question whether the county might use its powers under K.S.A. 19-101a to contract with an individual company to deal with the noxious weed problem in Greenwood County in lieu of the appointment of a county weed supervisor. The act in question is applicable uniformly to all counties, and the appointment of a supervisor under K.S.A. 2-1316 is not merely permissive, i.e., an appointment which the county is empowered to make, but it is mandatory, one which it must make. Thus, in my judgment, the requirement is not one which may be displaced or superseded by the exercise of county home rule powers.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj