



STATE OF KANSAS

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October 4, 1979

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ATTORNEY GENERAL OPINION No. 79- 226

Mr. Jay W. Vander Velde  
Lyon County Attorney  
Lyon County Courthouse  
Emporia, Kansas 66801

Re: Courts--District Courts--Expenses

Synopsis: Under Kansas statutory and case law, a county's budget constitutes an appropriation of county moneys for specific purposes, and such moneys may not be expended for any purpose other than that for which it is appropriated. Claims against the county for reimbursement of expenditures not contemplated by the county budget cannot be paid. Thus, the District Court cannot make a claim against the county for reimbursement of expenditures not contemplated or in excess of the amount appropriated for the District Court.

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Dear Mr. Vander Velde:

In your opinion request of May 27, 1979, you raised the question of whether Lyon County can properly reimburse the Lyon County District Court for checks purchased for court business and for cash shortages found in the cash drawer. The gravamen of the problem is that the items covered by the request for reimbursement are not found in the budget appropriation for the Lyon County District Court. Thus, the question is whether the Lyon County Commissioners may properly reimburse the District Court for expenditures not authorized in the budget.

K.S.A. 1978 Supp. 20-348 provides, in part, that the board of county commissioners of a county shall be responsible for all expenses

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incurred for the operation of the district court in the county, except for expenses required by law to be paid by the state. Also important in this regard is K.S.A. 1978 Supp. 20-349, which states:

"The administrative judge in each judicial district shall be responsible for the preparation of the budget to be submitted to the board of county commissioners of each county. The board of county commissioners shall then have final authority to determine and approve the budget for district court operations payable by their county. The judicial administrator of the courts shall prescribe the form upon which such budgets shall be submitted. The budget shall include all expenditures payable by the county." (Emphasis added.)

It is well-settled law that the board of county commissioners have only such powers as are conferred upon them by statute. Cunningham v. Blythe, 155 Kan. 689, at 694 (1942). By a reading of the above statute, it becomes apparent that the exclusive statutory means by which the county commissioners may reimburse the district court for its expenses is through the presentation of a budget request.

Our review of Kansas case law regarding budgets of municipalities reveals a reluctance by the court to sanction any expenditure above and/or apart from a budget appropriation. An exception to this attitude is found in Joint Consolidated School District v. Johnson, 166 Kan. 636 (1949). In this case the school board had promised teachers an addition to their salaries over their contract amounts for working extra hours. The original action was attacked upon grounds that the additional funds were above the contract amounts that were necessitated by World War II conscription of teachers in mid-year. In justifying the expenditure, the Court relied heavily upon the fact that the total amount paid to all teachers did not exceed the total amount budgeted for teachers' salaries.

The Johnson case must be viewed as a non-precedential exception to the Kansas Supreme Court's otherwise consistent pronouncements regarding the necessity of budgeting for expenditures of local units of government. The Court's attitude is reflected in Shouse v. Cherokee County Commissioners, 151 Kan. 458 (1940), where at page 466 it is stated:

"If the payment of claims not included in the budget is to be held within the power of the board, there

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is nothing to prevent the board from using all moneys on hand for the payment of any indebtedness, thus defeating the purpose both of the budget law and of the cash-basis law."

See also in accord: Gridley High School District v. Woodson County Commissioners, 155 Kan. 407 (1942), and State, ex rel., v. Board of County Commissioners, 173 Kan. 367 (1952).

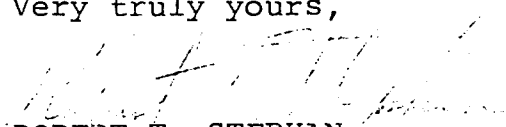
The legislature also has specifically announced that spending beyond budget appropriations is to be prohibited. In K.S.A. 79-2934 the following is found:


"The budget as approved and filed with the county clerk for each year shall constitute and shall hereafter be declared to be an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose. No money in any fund shall be used to pay for any indebtedness created in excess of the total amount of the adopted budget of expenditures for such fund . . . ."

But for the few delineated exceptions, a reading of the above-cited statute establishes that the legislature intended to retain the budget limits as static boundaries within which expenditures must remain.

We cannot escape the reality of a strong legislative policy to maintain expenditures at budget levels and within budget boundaries, as well as provide for sound fiscal management. This fact is well-butressed by the Kansas cases cited. Thus, the District Court cannot make a claim against the county for reimbursement of expenditures not contemplated or in excess of the amount appropriated for the District Court.

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL

  
Michael D. Kracht  
Assistant Attorney General

RTS:MDK:bjh