



STATE OF KANSAS

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May 14, 1981

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ATTORNEY GENERAL OPINION NO. 81-109

Mr. Dan J. Shoemake, Director
ANW Special Education Cooperation
402 East Jackson
Iola, Kansas 66749

Re: Schools--Boards of Education--Voting by Members
Thereof, Absentions

Synopsis: On and after July 1, 1981, if a member of a board of education abstains from voting on an issue without having previously announced a conflict of interest with regard to the issue, said board member shall be counted as having voted against the motion or resolution. Cited herein: K.S.A. 72-8205, as amended by 1981 H.B. 2474, §1; K.S.A. 72-8230.

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Dear Mr. Shoemake:

On behalf of the Board of Directors of the ANW Special Education Cooperative, you seek our opinion concerning the absention of a board member on a motion before the board.

The ANW Special Education Cooperative was established pursuant to K.S.A. 12-2901 et seq. and K.S.A. 72-8230. In regard to providing special education services, the Board of Directors of the cooperative has the same powers and responsibilities as a board of education of a unified school district. K.S.A. 72-8230. Boards of education are required to transact business in accordance with the provisions of K.S.A. 72-8205. As currently

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written, this statute is silent regarding the effect of an absence by a board member. However, in this session of the legislature, the legislature passed, and the governor has signed, a bill amending the provisions of said statute. See Section 1 of 1981 House Bill No. 2474.

On and after July 1, 1980 (the effective date of House Bill 2474), K.S.A. 72-8205 will provide, in part:

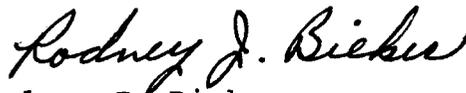
"Any member [of a board of education] who abstains from voting shall be counted as having voted against the motion or resolution. If a member announces a conflict of interest with regard to the issue, the member may leave the meeting until the voting on the issue is concluded and the member who abstains from voting thereby shall not be counted as having voted." (Emphasis added.) K.S.A. 72-8205, as amended by 1981 H.B. 2474, §1.

Thus, on and after July 1, 1981, if a board member abstains from voting on an issue, without having previously announced a conflict of interest with regard to the issue, said member shall be counted as having voted against the motion or resolution.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm