



STATE OF KANSAS

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June 2, 1981

ATTORNEY GENERAL OPINION NO. 81-129

Ms. Thelma Foster  
County Clerk  
Labette County Courthouse  
Oswego, Kansas 67356

Re: Elections -- Election Expenses of Candidates and  
Organizations -- Reporting Requirements Applicable  
to Counties

Synopsis: The expenditure of county moneys by a board of  
county commissioners, for the purpose of promot-  
ing the adoption of a question submitted at a  
county election, subjects the board of county  
commissioners to the provisions of K.S.A. 1980  
Supp. 25-901, which require the reporting of such  
expenditures. Cited herein: K.S.A. 10-1101,  
K.S.A. 1980 Supp. 12-105a, K.S.A. 12-726, 12-1218,  
12-1679, 12-2701, 12-3102, K.S.A. 1980 Supp.  
25-901, K.S.A. 25-902, K.S.A. 1980 Supp. 31-132,  
K.S.A. 68-2101.

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Dear Ms. Foster:

You indicate that, at the time of the recent city and school  
district elections, there also was a special election in  
Labette County on the question of whether a local sales tax  
should be imposed in that county. You note that, prior to the  
election, a committee was formed within the county for the  
purpose of opposing this proposition; and, accordingly, you

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have sent to this committee a form for the reporting of the committee's expenditures, which is required by K.S.A. 1980 Supp. 25-901. However, you also state that the Board of County Commissioners of Labette County "spent some County money," and you have requested our opinion as to whether the county commission also should file a statement of these expenditures.

K.S.A. 1980 Supp. 25-901 states in pertinent part:

"Every committee, club, organization, municipality or association designed to promote or engaged in promoting the success or defeat of any party or the election or defeat of any candidate or candidates for any city, school district, community junior college, township or county office, or the adoption or defeat of any question submitted at any city, school district, community junior college, township or county election, shall have a treasurer, and shall cause to be kept a detailed account of all moneys or property or other thing of value received by it, and of the manner in which the same shall be expended; and shall file annually with the county election officer of the county in which such committee, club, organization or association has its headquarters a statement of all its receipts and expenditures, showing in detail from whom said moneys or property or other thing of value were received, to whom said moneys or property or other thing of value were paid, for what specific purposes each payment was made, and the exact nature of the service rendered in consideration thereof."

Since you have not provided us with any detailed information as to the expenditures made by the board of county commissioners, we must assume that such expenditures were made for the purpose of "promoting . . . the adoption . . . of . . . [a] question submitted at . . . [a] county election," as contemplated by the statutory provisions quoted above. However, the question remains whether a board of county commissioners is subject to the reporting requirements of this statute.

Although it would appear that K.S.A. 1980 Supp. 25-901 is designed primarily to obtain the reporting of receipts and

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expenditures by committees, clubs, organizations and associations which oppose or support candidates, parties or propositions at local elections, in our judgment, the statute applies to municipalities engaged in such activities, as well. Our conclusion in this regard is enhanced by the legislative history of this statute. It was enacted in 1909 (L. 1909, ch. 135, §1), and at that time it imposed reporting requirements on "[e]very state, district, county, city, ward or township committee, or any club, organization or association designed to promote or engaged in promoting the success or defeat of any party or the election or defeat of any candidate or candidates to political office." However, in 1968 this language was amended substantially (L. 1968, ch. 54, §1) so as to limit the statute's applicability to "[e]very committee, club, organization or association." At the next session of the legislature, though, the legislature once again amended this language (L. 1969, ch. 188, §1) by specifically including a "municipality" as one of the entities subject to the statute's provisions. This latter amendment evidences a clear legislative intent that reporting requirements of 25-901 be applicable to a municipality which expends moneys in promoting the adoption or defeat of a question submitted at any local election. Thus, resolution of your inquiry depends on whether a county is a "municipality" within the meaning of 25-901.

In the task of construing a statute, the basic rule of construction, to which all other rules are subordinate, is that the purpose and intent of the legislature governs when that intent can be determined from the wording of the statute. City of Salina v. Jaggars, 228 Kan. 155 (1980). Where the language used is plain and unambiguous and also appropriate to an obvious purpose, the meaning given to the statute must give effect to such language. Underwood v. Allmon, 215 Kan. 201 (1974). In addition, it is to be presumed that the legislature both understood the meaning of the words it used and intended to use them and that it used the words in their ordinary and common meaning. Rogers v. Shanahan, 221 Kan. 221 (1976). Finally, in the absence of anything in the context of the statute to indicate otherwise, the same word used in different statutes relating to the same subject is interpreted as having the same meaning. Callaway v. City of Overland Park, 211 Kan. 646 (1973).

Unlike a number of other Kansas acts, the term "municipality" is not defined for the purposes of K.S.A. 1980 Supp. 25-901.

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However, as there also appears nothing to indicate that any special meaning is to be attached to the term, it is reasonable to look to other Kansas statutes in which the term is specifically defined. Our review of these statutes, while no means exhaustive, has disclosed no less than eight different statutes in which "municipality" has been defined to include counties, as well as cities and various other local governmental units. These include: K.S.A. 10-1101(a) (Cash Basis Law); K.S.A. 1980 Supp. 12-105a(a) (payment of claims against governmental units); K.S.A. 12-726(c) (planned unit developments); K.S.A. 12-1218(a) (libraries); K.S.A. 12-1679(a) (1) (licensing of private security police); K.S.A. 12-3102(b) (control of water pollution); K.S.A. 1980 Supp. 31-132(c) (fire safety and prevention); and K.S.A. 68-2101(d) (repair of highways and roads). The sole exception to the above was found at K.S.A. 12-2701(a), which defines the term to include only certain cities, townships or improvement districts located within certain counties, a fact which leaves the definition of little bearing on this inquiry.

In reading K.S.A. 1980 Supp. 25-901, we can determine no reason why "municipality" should be interpreted differently than in the great majority of statutes cited above where an express definition is set out. Nor, in our judgment, does there exist any public policy which is to be served by excluding counties from the requirements of this statute.

In reaching this conclusion, we are cognizant of the penal character of this statute, since K.S.A. 25-902 provides criminal penalties for violating the requirements of K.S.A. 1980 Supp. 25-901. However, in this context, the rule of construction reiterated in State v. Howard, 221 Kan. 51 (1976), is relevant:

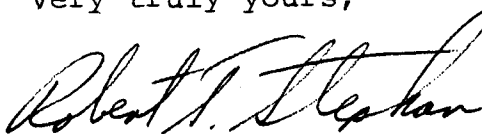
"We are not unaware or unmindful of the rule requiring strict construction of penal statutes in favor of the persons sought to be subjected to their operation. State, ex rel., v. American Savings Stamp Co., 194 Kan. 297, 398 P.2d 1011; State v. Bishop, 215 Kan. 481, 483, 524 P.2d 712. The rule simply means that ordinary words are to be given their ordinary meaning. It does not permit or justify a disregard of manifest legislative intention appearing from plain and unambiguous language. State v. Walden, 208 Kan. 163, 166, 167, 490 P.2d 370." 221 Kan. at 54.

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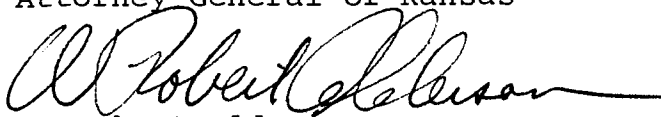
In accord is State v. Logan, 198 Kan. 211 (1967), wherein the Court states: "A penal statute should not be read so as to add that which is not readily found therein, or to read out what, as a matter of ordinary language, is in it." Id. at 213. Accordingly, we believe our interpretation of "municipality," so as to attribute to this word its common and ordinary meaning, is in accord with relevant rules of statutory construction.

Therefore, it is our opinion that the expenditure of county moneys by a board of county commissioners, for the purpose of promoting the adoption of a question submitted at a county election, subjects the board of county commissioners to the provisions of K.S.A. 1980 Supp. 25-901, which require the reporting of such expenditures.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



W. Robert Alderson  
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