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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

August 3, 1981

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ATTORNEY GENERAL OPINION NO. 81-258

Raymond L. Dahlberg
Attorney at Law
1815 Broadway
P. O. Box 824
Great Bend, Kansas 67530

Re: State Departments; Public Officers, Employees --
Open Meetings Law -- Appointments by Secret Ballot
Prohibited

Synopsis: A board of trustees of a community college may not vote by secret ballot to appoint a person to fill a vacancy on the board. The taking of such binding action by secret ballot is prohibited by the Kansas Open Meetings Act. Cited herein: K.S.A. 75-4317 et seq., as amended by 1981 House Bill No. 2103 (L. 1981, ch. 344), K.S.A. 1980 Supp. 75-4318.

* * *

Dear Mr. Dahlberg:

As counsel for Barton County Community College you request the opinion of this office regarding the Kansas Open Meetings Act, K.S.A. 75-4317 et seq., as amended and supplemented by 1981 House Bill No. 2103 (L. 1981, ch. 344). Specifically, you ask whether the Board of Trustees may vote "by secret ballot" to appoint a person to fill a vacancy on the Board for the remainder of the unexpired term.

The Kansas Open Meetings Act provides in pertinent part as follows:

"[A]ll meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees,

Raymond L. Dahlberg
Page Two
August 3, 1981

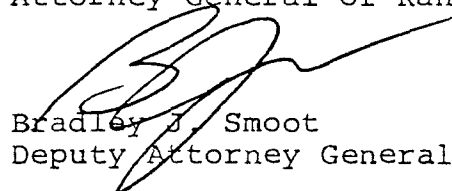
subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot"
(Emphasis added.)

A board of trustees of a community college is a body subject to the open meetings law. Hence, it may take no binding action whatsoever by secret ballot. The appointment of a person to fill a vacancy on the board is binding action, and the vote of members favoring and opposing such appointment must be made and recorded in public view so that the position taken by each trustee can be known to the public.

Sincerely,



ROBERT T. STEPHAN
Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJS:hle