



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 82- 61

Mrs. Kay Homewood, Chairman
Russell County Extension Council
1223 North Front
Russell, Kansas 67665

Re: Agriculture -- County Agricultural Extension
Councils, Boards and Agents -- Compensation of
Extension Service Agents

Synopsis: K.S.A. 1981 Supp. 2-610(d) requires that the executive board of the county extension council prepare an annual budget in cooperation with the board of county commissioners and the director of extension of Kansas State University. K.S.A. 1981 Supp. 2-615 requires that compensation of county extension service agents be determined by the executive board of the county extension council and the director of extension or the director's authorized representative. By implication, K.S.A. 1981 Supp. 2-615 does not allow a board of county commissioners to place limits on the salaries of county extension service agents as part of the budget approval process. Cited herein: K.S.A. 1981 Supp. 2-610, 2-615.

* * *

Dear Mrs. Homewood:

You inquire of this office whether the executive board of the county extension council or the board of county commissioners has the authority to determine the salaries of county extension agents. You indicate in your correspondence, dated July 14, 1981, that the budget process has generally followed a pattern where the executive board and a representative of the extension service from Kansas State University have met and prepared a budget proposal. The proposal is then submitted to the board of county commissioners for approval. If

the budget proposal is not approved, revisions are made by the executive board in an effort to reach agreement with the board of county commissioners. Prior to approval of the 1982 budget the Board of County Commissioners of Russell County stipulated that county extension agents be limited to a maximum annual salary of \$26,000.

K.S.A. 1981 Supp. 2-615 states in pertinent part as follows:

"The executive board of the county extension council and the director of extension, or the director's authorized representative, shall appoint a county extension agent and determine the amount of the extension agent's compensation."

The language of K.S.A. 1981 Supp. 2-615 requires that salaries paid to county extension agents be determined by the executive board of the county extension council and the director of extension or a representative of the director. Therefore, the salary limitation imposed by the board of county commissioners is not statutorily authorized, and, consequently, lacks the force of law. The budget document prepared by the three statutorily-designated parties does not limit authority conferred by K.S.A. 1981 Supp. 2-615, except as to the total amount made available to the council from the tax levy authorized by K.S.A. 1981 Supp. 2-610. The distribution of funds appropriated to the extension council pursuant to K.S.A. 1981 Supp. 2-610 is the responsibility of the executive board and the director of extension. Therefore, in our judgment the agreement between the Board of County Commissioners, the executive board, and the representative of the director of extension limiting salaries for the 1982 budget has no legal effect and is not enforceable.

A similar situation was addressed in Attorney General Opinion No. 79-113 wherein it was determined that a resolution enacted by the Board of County Commissioners of Shawnee County, Kansas improperly infringed on statutorily conferred power of other elected county officials. The resolution in question had the effect of interfering with the statutorily conferred authority of certain elected county officials to appoint employees to various positions. The opinion states in part:

"In conclusion, it is our opinion that the power of appointment which is statutorily vested in duly elected county officials carries with it an authority for office management which may not be directly abridged by a general resolution couched in the language of fiscal restraint, however well intentioned.

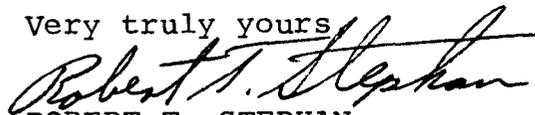
The power of the board of county commissioners regarding the financial matters of the county is extensive; however, that power may not be exercised so as to impinge upon the statutory authority of other elected county officials."
(Attorney General Opinion NO. 79-113, p. 12)

K.S.A. 1981 Supp. 2-610(d) states that budget preparation be a cooperative effort of the executive board, the board of county commissioners, and a representative of the Kansas State University extension service. K.S.A. 1981 Supp. 2-610 requires that the budget of the Agricultural Extension Council be approved by (1) the board of county commissioners, (2) the director of extension of Kansas State University or the director's duly authorized representative and (3) the chairperson of the executive board of the county extension council, acting as a body." The process described in your correspondence where budget proposals are submitted to the board of county commissioners prior to final approval apparently satisfies the requirement that the budget be cooperatively prepared.

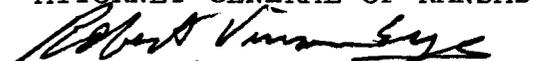
The implication of this statutory requirement of cooperation is that the parties will compromise on issues so that eventually a budget can be adopted that allows the county extension council to function as intended by the legislature. However, the board of county commissioners is not granted separate authority to withhold final approval of the budget as prepared by the executive board and Kansas State University's extension representative where the board of county commissioners has cooperated in preparation of the budget pursuant to K.S.A. 1981 Supp. 2-610(d). Indeed, assuming that the budget is cooperatively prepared by the three agencies acting as a body, it is not subject to revision by the board of county commissioners at the subsequent general budget hearing. State ex rel. v. Belt, 175 Kan. 330 (1953).

In summary, for two reasons the board of county commissioners is not allowed to unilaterally impose limits on salaries paid to county extension agents. First, K.S.A. 1981 Supp. 2-615 requires that the executive board of the county extension council and the director of extension be responsible for determining the amount of the extension agent's compensation. Second, the cooperative budget preparation process required by K.S.A. 1981 Supp. 2-610 and the Belt opinion do not allow revision of such cooperatively prepared budgets by the board of county commissioners at a subsequent regular budget hearing.

Very truly yours


ROBERT T. STEPHAN

ATTORNEY GENERAL OF KANSAS


Robert Vinson Eye
Assistant Attorney General