

## **Failure to Submit an Adopted Budget**

Question: One of our recreation commissions has not submitted a budget. I have talked to one of the officers and she said they had their meeting and it is signed but the President has never brought it to us. I have left a message and am hoping that she will return my call but we'd like to know what we need to do if she does not submit it? We are figuring levies now.

Answer: Since the recreation commission does not levy taxes directly, but instead relies on a City or USD to levy taxes for it, the levy should be set upon the budget of the City or USD.

However, K.S.A. 12-1927(a) states that “[a] copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located.” The recreation commission must file its budget with the county clerk and responsibility for such filing rests with the recreation commission (in some cases the USD or city takes care of the filing, but responsibility ultimately falls to the recreation commission).

And, K.S.A. 79-2934 provides that “[t]he budget as approved and filed with the county clerk . . . shall constitute and shall hereafter be declared to be an appropriation for each fund . . . .”

Reading the two statutes together budget authority results from lawfully adopting a budget and filing that budget with the county clerk. Dollars are not appropriated for a fund in the absence of filing the budget, meaning that the recreation commission – should it fail to file its budget – will lack authority to spend during the budget year unless and until it files its budget with the county clerk.

Inasmuch as the recreation commission has, it would appear, adopted a budget, the most appropriate course might be to call or write again to explain the need for the budget to be filed.

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Question: It's looking like our city council might not be able to agree on a budget. If that happens can we just go with the budget adopted last year?

Answer: No. Without an adopted budget for the next fiscal year the city will lack authority to spend what unencumbered cash it might have to start the next fiscal year (K.S.A. 79-2927(a); 79-2934), and no taxes may be levied in support of the city in the absence of an adopted budget for the next fiscal year (K.S.A. 79-2933).

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