

Mill Rate Higher Than Mill Rate Adopted

Question: Good afternoon. I have a question that I would like your help answering. I would like to make sure we interpret the budget statutes and budget manual correctly to comply with Kansas Law.

If a reduction in valuation caused the mill levy rate to exceed the mill levy rate estimated during the budget process prior to August 25, is there any action that the government can take to reset mill levy rates? For example: the 2010 mill levy was adopted at 70 mills and final assessed valuation results in the mill levy being set at 75 mills.

Answer: First, we need to look at KSA 79-2930(a) to determine what amounts in the budget are being adopted. The statute provides:

Two copies of the budget certificate giving the amount of ad valorem tax to be levied and the total amount of the adopted budget of expenditures by fund . . . shall be presented to the county clerk within the time prescribed by K.S.A. 79-1801 and amendments thereto.”

The governing body in adopting the budget and certifying the adopted budget to the County Clerk is limiting the amount of ad valorem tax to be levied and of expenditures by fund. From there the determining factor as to mill rate is the amount of final total assessed valuation. So, the governing body is not adopting the mill rates, but rather the governing body determines what it needs in ad valorem tax dollars to help fund that budget.

Once the budget has been filed the County Clerk sets the levy rate, which itself is a mathematical computation based upon (1) the amount of ad valorem tax dollars requested and (2) the amount of final total assessed valuation.

Now, to your question of what might be done to amend your budget to reduce the mill rate? KSA 79-2929a(b) states:

Whenever a clerical error in the calculation of the assessed valuation of any taxing subdivision or municipality . . . is discovered after the governing body has adopted the budget and prior to October 1, the governing body may amend such budget.

Here, the statute allows for amendment of an adopted budget, and before the budget year starts, if clerical error has occurred and such is discovered prior to October 1. If this is the situation you face then authority does exist for the governing body to amend its budget and, in effect, knock its mill rate down to where it was at when the budget was first adopted utilizing the preliminary total assessed valuation number.
