

Publication of the Proposed Budget

Question: Our governing body met last night and adopted a budget that exceeds by \$15,000 in one fund the amount of expenditures published in the notice of hearing. To offset this \$15,000 increase in expenditures the governing body decreased expenditures in another fund by \$15,000 so that the bottom line total of expenditures, as published, remains the same. Do we need to re-publish and hold another hearing?

Answer: You do need to re-publish and hold another hearing if the governing body wants a budget with the changed budget authority. K.S.A. 79-2930(c) provides that “[e]ach fund of the adopted budget certified to the county clerk in no event shall exceed the amount of ad valorem tax to be levied and the proposed expenditures of such fund in the proposed budget as originally published.” So, if what the governing body proposes to adopt is a budget that includes in one or more funds an increase in expenditures, or an increase in taxes to be levied, or both, then re-publication, followed by budget adoption, will be necessary in order to meet the statutory requirement.

Along with re-publishing the budget summary it will be necessary for the governing body to set a new budget hearing date. And, if the governing body will be unable to meet the August 25 deadline for budget submission to the county clerk, as a courtesy please advise the county clerk of the expected delay.

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Question: I have published our budget summary and notice of hearing, but noticed an error in the budget. I did not input the correct assessed valuation and by doing so the mill levy will drop by 2.8 mills. Since the mill does not increase, do I need to republish the budget summary or can the council sign off on a revised summary showing a lower mill levy at the budget hearing?

Answer: The short answer is that you are OK with what was published and, in fact, you would only need to republish if a fund dollar amount (expenditure or tax to be levied) would increase from what was published.

Pertinent language from the budget law (KSA 79-2930(c)) follows:

“(c) Each fund of the adopted budget certified to the county clerk in no event shall exceed the amount of ad valorem tax to be levied and the proposed expenditures of such fund in the proposed budget as originally published”

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Question: “For compliance with the 10-day rule do we count just the business days? Or, do we count weekend days, too?”

Answer: K.S.A. 79-2929 provides that “[t]he governing body shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper of the county having a general circulation therein.” All days, including weekend days, are counted.

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Question: “Our newspaper publishes once a week, on a Thursday. We can’t hold our budget hearing until at least 10 days have passed after publication. In computing the 10 days do we include the day of publication?”

Answer: To compute the 10 days required by the budget law you do not include the day of publication as one of the 10 days. Day one of the 10 days is the day following publication.

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Question: The InputBudSum tab enables us to type in our name for the place where it goes on the notice of budget hearing document, the one that goes to the newspaper. Do we still need to sign on the signature block before the notice gets published?

Answer: “Signing” the notice of budget hearing document with a printed name is sufficient. The budget law does not directly require a hand-written signature, nor does it directly require a printed signature, or any signature at all for that matter, but we do recommend that one or the other be included with the published notice.

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Question: I had a township come in last week and I prepared their budget and only two officers were present, and they decided to increase the budget by almost 3 mills. So I made the changes and published it, but after they spoke to the 3rd officer, they decided that maybe they shouldn't have increased it so much. Since I have already published it, if they chose to decrease it do I need to do any other publications? I haven't run across one that ends up decreasing at the budget hearing so I want to make sure I know the correct process.

Answer: Great question. The budget law only prohibits, following publication, adoption of a budget that results in an increase of a fund's expenditure amount, or of a fund's tax dollar amount, or of both. The taxing unit - in this case your township - can always adopt a budget following publication that calls for a decrease in a fund expenditure/tax dollar amount.

So, your township is good to go with adopting a budget with lower expenditures/tax dollars, the effect of which will be to reduce the mill rate back to where they want it. No further publication is required.

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Question: Our newspaper published the notice but, for some reason, deleted the budget year dollar amount for our water fund? All of the other fund dollar amounts are OK. Do we need to re-publish?

Answer: In order for the budget authority of your water fund to exceed \$0 next year you will need to re-publish with a budget authority expenditure amount acceptable to your governing body (presumably, the amount that the newspaper inexplicably deleted).

K.S.A. 79-2930(c) provides that no fund of the budget certified to the county clerk may exceed the tax dollar amount or the expenditure authority amount, or both, as originally published.

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Question: Good Morning. I am working with a watershed that publishes in five newspapers, but is funded by only four counties. They are asking if it is necessary to publish in all those newspapers? Do you know the answer to that? Thanks so much for your help

Answer: Great question. In K.S.A. 79-2929 it is provided that “[t]he governing body shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper of the county having a general circulation therein.”

In short, they do need to publish in each county from which tax dollars are levied, but they need only publish in one newspaper “of the county” and which has general circulation in such county.

We hope that this helps,

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Question: I have a problem that I don't know how to handle. Our official county newspaper is a weekly paper that comes out on Wednesdays. I took the notice of budget hearing over to the paper on July 30th, with the instructions that it be published in the August 8th edition of the paper in order to meet the 10-day deadline before the hearing, which is scheduled on the 20th of August.

Well, guess what?...They did not run it in the newspaper this week....ARGH!!!! They said that they can get it in the August 15th edition, but that will put me in violation of the 10-day period before the hearing, which we have scheduled on the 20th, which must be done before the 25thsee where I am going with this?

Answer: We are sorry about the newspaper messing up like that. It must be really frustrating to have done it all timely, just to have a slip-up like this throw a wrench into everything. Unfortunately, of all the deadlines, etc. in the budget law, it's our feeling here that the 10-day rule is the one with which you should make sure you are compliant. Obviously, you did everything you could do to insure compliance.

Our only suggestion at this point in the process is to change your hearing date to a date at least 10 days following the expected August 15 publication, and don't worry about meeting the August 25 deadline. The August 25 deadline has been found by the Kansas Supreme Court to be a "directory" deadline - as opposed to a mandatory deadline - due to the fact that the statutes contain no penalty for missing the deadline. So, you are OK to hold your hearing after the 25th.

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Question: I have a question in regards to special districts. I am working on two different Counties and I want to make sure that I handle the special districts correctly. Do the special districts need to publish their own summary page or does publishing the second page of the County's suffice? I am dealing with special districts where some of them are governed by the County Commissioners and the others have their own separate governing body (does this make a difference?).

Answer: We assume you are using the County or County1 budget form for the county's budget and then the County Multiple Special District budget form for the special districts. If this is the case, the notice of budget hearing for the county can also be used for the special districts (just add the data for the special districts on the second summary page). Please note that if the governing body of the special district is not the County Commissioners, some member of the governing body of the special district will need to be present to address questions.

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Question: When I send to you the budgets from our county can the proof of publication be a copy of the publication with the publish date at the top? Getting a proof of publication affidavit is next to impossible from our paper. They send them all at once, once or twice a year.

Answer: Great question. Yes, a copy of the publication on which is shown the date of publication will work just fine.

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Question: Hi. I have a question for you on a City budget. Their published notice has different totals than their adopted budget. The overall total levied is less, but they moved amounts to different funds.

For their library and cemetery funds the adopted budget has budget authority and ad valorem tax amounts lower than what was published, but for the general and debt service funds the budget authority amounts, as well as the tax levy amounts, are higher than what was published. Overall totals for budget authority and ad valorem taxes are lower than what was published.

They want to use the adopted budget amounts.

I guess I need confirmation that I can only levy by fund what is published in the paper and tell them that their budget is what is published? Should I recommend that they republish?

Answer: Good morning. You are absolutely correct. The city's proposed expenditures *and* ad valorem tax levy are limited *by fund* to what they published. Although overall expenditures and ad valorem taxes are less in the adopted budget, the budget law sets the appropriation and tax levy at the fund level. It appears that the adopted budget for the city increased expenses and taxes for the general and debt service funds.

K.S.A. 79-29309(c) is the guidance on this issue and reads as follows:

Each fund of the adopted budget certified to the county clerk in no event shall exceed the amount of ad valorem tax to be levied and the proposed expenditures of such fund in the proposed budget as originally published. . . .

At this point, if the adopted budget reflects what is needed in the way of expenditures and tax levy for the general and debt service funds, we would strongly recommend they republish and hold another hearing after 10 days. This is assuming that your office is okay with the delay,

since they obviously will not meet the August 25th deadline. Otherwise, their expenditure authority and levy amounts will be limited to no more than what was published. They could amend the budget next year to increase expenditure authority for the general and debt service funds, but the amendment process will not address the tax levy issue.

Hope this helps.

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Question: The budget for one of our townships was supposed to be published yesterday but the newspaper didn't run it. Now they're looking at pushing everything back (paper comes out once per week). Can we use the [newspaper in adjoining county]? It comes out every day and I think we can run it there and not have to change the hearing date. Thanks!

Answer: Unfortunately, a local newspaper failing to publish as expected seems to happen at least several times across the state each year. And, though the newspaper you mention may have wide coverage throughout your county, it is not one that can be used for publication of the proposed budget. The budget law statute that applies in this instance is K.S.A. 79-2929, which provides in part as follows:

The governing body shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper of the county having a general circulation therein.

The newspaper you describe, while one that would meet the "general circulation" standard, is not *published* in your county and the home office of the newspaper is in the adjoining county; thus, it is not a newspaper "of the county," and for this reason cannot be used for publication of the township's proposed budget.

Thank you for your question. We hope that this is helpful.

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Question: I was told that I am to publish the ordinance when I publish the summary page. In the past I always published the ordinance after the hearing and the budget was approved. What is the correct way to do this?

Also, we have our budget hearing on the 3rd of August. If the public encourages the council to change their budget and lower the 7.40 mill increase they proposed in their published budget, will I have to republish the summary page after I make the changes and wait another 10 days for another hearing?

Answer: Good morning. K.S.A. 79-2925b is the controlling statute, and the pertinent language in subsection (a) reads as follows:

Without adoption of a resolution or ordinance so providing, the governing body of any taxing subdivision shall not approve any appropriation or budget . . . and which provides for funding with [property tax] revenue in an amount exceeding that of the next preceding year

Based on this language, we have interpreted it to mean that the resolution or ordinance needs to be *adopted* prior to the formal passage of the budget. Now, the question becomes how far in advance does the ordinance or resolution need to be passed. Again, being fairly liberal in our interpretation, the ordinance could be passed immediately prior the passage of the budget, and you should be in compliance. So as long as the ordinance is passed prior to the formal passage of the budget, we think your current practice of publishing the ordinance after the hearing and budget passage would be fine.

To address your second question, the budget summary published in the paper informs the taxpayers of the maximum amount of monies the city proposes to spend (by fund) and to levy (by fund) in the budget year. If, after the hearing, the governing body wishes to reduce any of those dollar amounts, you are fine and do not have to republish. However, if the governing body decides to increase the proposed expenditures, or the amount to be levied, in just one budgeted fund (and it does not have to be a tax levy fund), then the summary has to be republished and another hearing must take place at least 10 days following the new publication.

We hope this information helps.

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Question: I'm just double checking to be sure lease purchase is to be showing this way. See my attachment.

Last year's form didn't list the year across the top of lease purchase, so I listed 2010, 2011 & 2012 Principal Balance. And when looking at all of this I found that on last year's where it had the same amt for 2010 and 2011, do I have to republish?

Answer: Good morning. Your lease-purchase reporting appears fine. If the only issue on last year's budget form is the incorrect amounts being reported for lease-purchase, there is no need to republish.

Hope this information helps.

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Question: Hello. One of our townships failed to include the FEMA fund in their 2013 budget and also didn't publish the FEMA expenditures of \$4,850.80. Do they need to hold a new hearing and/or republish?

Thanks so much.

Answer: Good afternoon. To our knowledge we have consistently taken the position with regard to FEMA reimbursements that the reimbursement dollars may be accounted for in the fund or funds in which storm-damage expenditures were made on the front-end, *or* that the reimbursement dollars may be deposited to the credit of a non-budgeted fund, the only limitation to which would be the unencumbered cash balance of such fund.

Looking at the current year budget of your township it appears that the township chose to account for its reimbursement dollars in a separate, non-budgeted fund (although they did utilize a three-column fund). That being the case, and inasmuch as K.S.A. 12-1663 (the statute addressing the accounting for federal aid) does not directly require that actual year activity in a fund not subject to the budget law (beginning balance, receipts, expenditures, and ending balance) be shown on the budget forms for the benefit of the taxpayers (note: this statute does not directly authorize creation of a non-budgeted fund, either, and arguably requires in reimbursement situations that the reimbursement dollars be accounted for in one or more funds subject to the budget law), we think that your township is OK with the budget adopted and that there is no need to republish, etc. to show a zeroing out of their FEMA fund. Our opinion is also influenced by the late date and the nature of the municipality.

We hope that this helps.

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