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Subject

Counties Buildings
Hospitals



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STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

May 21, 1974

Opinion No. 74-120A

Mr. Donald D. Good
Osborne County Attorney
Osborne County Courthouse
Osborne, Kansas 67473

RE: Annual mill levy - Osborne County Hospital.

Dear Mr. Good:

This office issued an opinion to you dated April 2, 1974 (Opinion No. 74-120) relative to the maximum available mill levy for Osborne County Hospital. We are now advised that the factual data upon which that opinion was predicated should be reexamined in light of additional information subsequently brought to our attention. The conclusions reached in that initial opinion are herewith recinded insofar as they applied to Osborne County.

You now advise that the Osborne County Hospital was initially created and funded as a district hospital in 1959 pursuant to the General Statutes of Kansas 1955 Supp. 80-2178, et seq. In 1966 said hospital was transferred from Hospital District #1 to Osborne County pursuant to K.S.A. 1965 Supp. 19-1815c and K.S.A. 1965 Supp. 19-1815d. Since the hospital's transfer the county has levied annually a tax for its maintenance and operation. This levy presently amounts to one mill. However, the revenue generated from this levy does not sufficiently meet the present needs of the hospital. The question thus precipitated: what is the maximum annual tax which the county may now levy for hospital maintenance and operation under K.S.A. 1973 Supp. 19-1801, et seq and K.S.A. 1973 Supp. 19-1815c, et seq?

K.S.A. 1973 Supp. 19-1815d permits the county to annually levy a tax (limited to one mill by K.S.A. 1973 Supp. 79-1947) for the support, maintenance and improvement of a hospital transferred pursuant thereto. This statute also provides in part:

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" . . . all provisions of K.S.A. 19-1801 to 19-1815a, both sections inclusive, not inconsistent with this act shall be applicable to the hospital established under the provisions of this act."

Via K.S.A. 19-1801 a county may support a hospital created thereunder with an annual levy of up to two mills as prescribed by K.S.A. 1973 Supp. 79-1947. However, a county operating a hospital transferred pursuant to K.S.A. 1973 Supp. 19-1815d may not avail itself of this greater levy capability due to the inconsistency created by the specific reference in both statutes to the maximum levy authorized as limited by K.S.A. 1973 Supp. 79-1947. Any inconsistency, as K.S.A. 1973 Supp. 19-1815d provides, will viciate the applicability of that particular portion of K.S.A. 1973 Supp. 19-1801 to the transferred hospital.

Additional tax levies are, however, available to the county operating a hospital under K.S.A. 1973 Supp. 19-1815d through the provisions of K.S.A. 1973 Supp. 19-1809 which provides in pertinent part:

"In counties exercising the rights confined by this act the board of county commissioners is hereby authorized to levy a tax each year in addition to the tax for hospital fund hereinbefore provided for not to exceed the limitation prescribed by K.S.A. 1972 Supp. 79-1947, on all the taxable tangible property of said county for the operation, improvement, maintenance, furnishing and equipment of any public hospital so established, such tax to be levied and collected as other taxes.

"No county authorized to increase its levies under the provisions of this act shall make such increased levy until the question of making such tax levy is submitted to the qualified electors of the county at the next general election or at a special election called for such purpose."

The limit placed on this additional levy by K.S.A. 1973 Supp. 79-1947 is one mill.

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Accordingly, it is the opinion of this office that Osborne County for the purposes of supporting, maintaining and operating its county hospital may increase its present levy from one mill to a maximum of two mills as permitted under K.S.A. 1973 Supp. 19-1809 (providing the election requirements therein are properly complied with), K.S.A.1973 Supp. 19-1815d and K.S.A. 1973 Supp. 79-1947.

Very truly yours,



VERN MILLER
Attorney General

VM:JPS:bw

cc: Mr. Wayne Stratton