

FILE

Subject County Leases



Copy to Health Public Centers
Mental Health

STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

July 17, 1974

Opinion No. 74- 240

Patrick J. Reardon
Leavenworth County Attorney
Leavenworth County Court House
Leavenworth, Kansas 66048

Dear Mr. Reardon:

The first sentence of K.S.A. 19-4004 empowers a board of county commissioners to levy an annual tax not exceeding one-half mill for "mental health services." The second sentence authorizes an additional levy likewise not in excess of one-half mill for "mental retardation services, subject to the right of the electors to petition for an election for the purpose of approving or disapproving this additional levy. The third sentence contains two independent clauses, the second being a proviso bearing no discernible relation to the first. It provides, first, that the proceeds of the levies shall be placed in the hands of the appropriate governing body, followed by an ostensibly limiting proviso that the board of county commissioners of any county designated an urban area, i.e., Johnson County, may levy "for such purposes" not to exceed three-fourths mill annually. The statute continues thus:

"In addition thereto, to provide for the purchase of or the construction of facilities for the community mental health center, and/or facilities for the mentally retarded, the board or boards of county commissioners may, upon petition of the governing board, levy an annual tax . . . not in excess of one-quarter (1/4) mill . . . and sell general obligation bonds of such county, for the purpose of creating and providing a special fund to be used in acquiring a site for, and the building, equipping, repairing, remodeling and furnishing of a community mental health center, and/or facilities for the mentally retarded, or for any one or more of such purposes" [Emphasis supplied.]

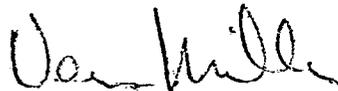
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The question you pose is whether the levy authorized for a community mental health center and/or facilities for the mentally retarded is available only to any county declared to be an urban area under K.S.A. 19-3524. In our view, the levy is not so restricted.

In effect, this provision authorizes two kinds of levies, one for mental health and mental retardation services, and another for community mental health and/or mentally retarded centers and facilities. The first three sentences authorize and concern the levies for services only. The proviso attached to the third sentence, authorizing an increased levy in counties designated urban areas, applies only to levies "for such purposes," i.e., mental health and mental retardation services. The balance of the provision authorizes and concerns levies for centers and facilities. The phrase "[i]n addition thereto," with which the balance of the act commences, must be construed, in our opinion, to apply to all the levies authorized in the preceding portion of the provision, and not merely to that levy of three-fourths mill recited in the proviso to the third sentence of the section.

Accordingly, we conclude that the levy authority recited in the fourth sentence of K.S.A. 19-4004 is available to any county which qualifies therefor, and not to only those counties designated urban areas under K.S.A. 19-3524.

Yours very truly,



VERN MILLER
Attorney General

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