



STATE OF KANSAS

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CURT T. SCHNEIDER  
Attorney General

July 28, 1975

ATTORNEY GENERAL OPINION NO. 75- 305

Mr. Gerald C. Golden  
Meade County Attorney  
Meade County Courthouse  
Meade, Kansas 67864

Re: Taxation--County Fair Associations--Levies

Synopsis: A levy under K.S.A. 2-131b may not be imposed in any year earlier than that authorized by the voters, and the proceeds of said levy must be used only for the erection and maintenance of buildings of the county fair association or society.

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Dear Mr. Golden:

We have the copy of your letter of July 18, 1975, addressed to the chairman of the Meade County Fair Association.

It appears that the voters of Meade County approved at the last general election a levy of three-tenths of a mill, pursuant to K.S.A. 2-131b. The ballot proposition stated that the levy which was submitted was a "levy to begin in the year of 1976." The question is raised whether the levy may be made this year, 1975, the proceeds thereof to be used in the 1976 budget year, or whether the levy may not be made until 1976, the proceeds to be available in 1977. You indicate that it was the general understanding of the community, and the intent of all parties concerned, that the proceeds of the levy submitted to the voters be available, if approved by them, for the 1976 budget year.

The specification that the levy be made commencing in 1976 conflicts with the implicit understanding and expectation of the voters that the proceeds of the levy would be available that same year. In *State ex rel. Bradley v. Board of County Commissioners of Johnson County*, 180 Kan. 168, 302 P.2d 542 (1956), the court stated thus:

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"When in 1933 the legislature enacted the general budget law . . . of this state, applicable to all taxing subdivisions and municipalities of the state, it provided that the budget year for the great majority of all such taxing units (G.S. 1949, 79-2934) was to commence on January 1 and end on December 31 of each year and carefully pointed out the few units except from such a budget year. Counties were not included in any of the exceptions." 180 Kan. at 174.

All taxes are due November 1. K.S.A. 79-1804. The monies collected from the taxes due on that date may not be credited to the funds of the county until January 1. K.S.A. 79-2934. Thus, taxes levied November 1 of one year are collected and credited to the funds of the taxing subdivision the succeeding January 1. If the levy approved by the voters was stated to "begin in the year of 1976," despite the common understanding of the electorate to the contrary, we must conclude that the levy may be made only in accordance with the proposition which they approved, and not in accordance with any popular understanding at variance with that proposition. Accordingly, we cannot but conclude that the levy may not be made until 1976, and may not be made during the year, 1975, for the succeeding budget year.

As to the second question, we fully agree with your objections to the use of the proceeds of this levy to satisfy an existing encumbrance and mortgage on existing structures. Under K.S.A. 2-131b, the levy may be used only "for the purpose of raising funds to be used for the erection and maintenance of buildings of such fair association . . ." and not for the purpose of discharging a pre-existing indebtedness.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj