



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

September 12, 1975

ATTORNEY GENERAL OPINION NO. 75-359

Mr. Dan E. Turner
City Attorney of Topeka
Municipal Building
215 East 7th Street
Topeka, Kansas 66603

Re: Taxation--Levy Limitations

Synopsis: Levies made by the City of Topeka to fund the budget of the Topeka Recreation Commission in respect of KPERS and OASI contributions on behalf of employees of the Topeka Recreation Commission are exempt from the aggregate levy limitations of K.S.A. 1974 Supp. 79-5001 *et seq.*

* * *

Dear Mr. Turner:

You inquire whether under K.S.A. 1974 Supp. 79-5015, the City of Topeka may levy for its KPERS and OASI contributions for employees of the Topeka Recreation Commission separately and in addition to those levies permitted by the aggregate levy limits prescribed by K.S.A. 1974 Supp. 79-5001 *et seq.*

The former statute prescribes thus:

"Whenever any taxing subdivision of this state shall be required by law to levy taxes for the financing of the budget of any political or governmental subdivision of this state which is not authorized by law to levy taxes on its own behalf, and the governing body of such taxing subdivision is not authorized or empowered to modify or reduce the amount of taxes levied therefor,

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the tax levies of such political or governmental subdivision shall not be included in or considered in computing the aggregate limitations upon the property tax levies of the taxing subdivisions levying taxes for such political or governmental subdivision. All statutory tax levy limitations applying to levies of such political or governmental subdivisions shall remain in effect and shall continue to limit and govern taxes levied for such political and governmental subdivisions."

Under K.S.A. 12-1908, the City of Topeka is required by law to levy taxes sufficient to fund the budget of the recreation commission, and the City is not authorized or empowered to modify or reduce the amount of taxes levied therefor. Thus, levies made by the City of Topeka to fund the budget of the Topeka Recreation Commission pursuant to K.S.A. 12-1908 are exempt from the aggregate levy limitations of K.S.A. 1974 Supp. 79-5001 *et seq.*

K.S.A. 40-2305(e) specifically authorizes certain political subdivisions to levy a tax for the purpose of making OASI contributions under that section,

"which may be in addition to all other taxes authorized or limited by law and shall not be subject to any aggregate tax levy limit prescribed by article 19 of chapter 79 of the General Statutes of 1949, or the 1959 Supplement thereto, or acts amendatory thereof or supplemental thereto, or any other law"

Identical language appears at K.S.A. 74-4920(4), respecting levies for the purpose of making KPERS contributions, exempting such levies from any statutory limitations thereon whatever.

Moreover, K.S.A. 1974 Supp. 79-5011 states in pertinent part thus:

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"The provisions of article 50 of chapter 79 of Kansas Statutes Annotated do not apply to the tax levies authorized or required under K.S.A. 40-2305 . . . [and] 74-4920 . . . or . . .

Amounts produced from any levy specified in this section shall not be used in computing any aggregate limitation under article 50 of chapter 79 of Kansas Statutes Annotated."

In my opinion, it is abundantly clear that levies for the purpose of making KPERS contributions and OASI contributions, imposed by the City of Topeka to fund those obligations of the budget of the Topeka Recreation Commission, are specifically and expressly exempted from the aggregate levy limitations of K.S.A. 1974 Supp. 79-5001 *et seq.*

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. R. G. Henley, Chief
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