

STATE OF KANSAS

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**Curt T. Schneider**  
Attorney General

August 12, 1976

ATTORNEY GENERAL OPINION NO. 76- 297

Honorable Dan Bromley  
Kansas State Senator  
Route #2, Box 75  
Atchison, Kansas 66002

RE: Counties - Budgets - No-fund Warrants

SYNOPSIS: Expenditures from the proceeds of a levy extended under K.S.A. 79-1607 to pay no-fund warrants issued under the authority of that provision must be supported by duly adopted budgetary authority.

\* \* \*

Dear Senator Bromley:

You inquire whether budget authority is required for the expenditure of the proceeds of a levy imposed pursuant to K.S.A. 79-1607 to pay no-fund warrants issued under authority of that section.

This act authorizes the board of county commissioners of any county to employ expert, clerical or other qualified personnel to assist the board in the performance of its duties as the county board of equalization. The board may under this section contract for the appraisal of all or any part of the county for the purpose of assessment equalization, and it may pay all or any part of costs of such an appraisal from either the county general fund or by the issuance of no-fund warrants authorized by the section. Concerning the issuance of no-fund warrants, the section provides thus:

"The board of commissioners of any county contracting for the purposes hereinbefore provided is hereby authorized and empowered to issue no-fund warrants in the amount necessary to pay for

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the same.

Such no-fund warrants shall be issued in the manner and form, bear interest and be redeemed as prescribed by section 79-2940 . . . and acts amendatory thereof, except that they may be issued without the approval of the state board of tax appeals, and without the notation required by section 79-2940. . . . Whenever no-fund warrants are issued under the authority of this act, the board shall make a tax levy at the first tax levying period after such warrants are issued, sufficient to pay such warrants and the interest thereon: Provided. That in lieu of making only one tax levy, such board, if it deems it advisable, may make a tax levy each year for not to exceed five (5) years in approximately equal installments for the purpose of paying said warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law, and none of the tax limitations provided by article 19 of chapter 79 of the General Statutes of 1949, and acts amendatory thereof, shall apply to such levies."

You advise that on December 1, 1975, the board of county commissioners of Atchison County adopted a resolution providing for the issuance of no-fund warrants, pursuant to K.S.A. 79-1607, the proceeds thereof to be used to pay the costs of a reappraisal which was to be performed under a contract entered into March 5, 1975. You inquire whether budget authority must be provided to authorize payment of the warrants from the proceeds of a tax levied for that purpose.

In order to clarify the question, the necessity of budget authority may be questioned for two separate expenditures, one being the expenditure of proceeds of no-fund warrants which are issued to meet the costs of the appraisal itself, and the second being the expenditure of proceeds of the levy which is extended to pay the warrants themselves.

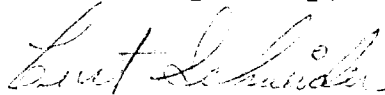
Generally, when application is made to the Board of Tax Appeals for the issuance of no-fund warrants, board approval constitutes budget authority for the expenditure for the purpose for which no-fund warrants are sought, and in an amount not to exceed the authority granted by the Board. Under K.S.A. 79-1607, funds for the cost of an appraisal may be paid from a clearly budgeted source, the county general fund, or from the proceeds of no-fund warrants. The question obviously may be raised whether, when an expenditure for an appraisal is not made from the county general fund, the county may provide its own budget authority merely by adopting a resolution for the issuance of no-fund warrants. Through the use of K.S.A. 79-1608, the question may often be mooted. Thereunder, at the end of any budget year, the county may transfer any or all of the monies in its general fund to a special assessment equalization fund, and monies in this fund may be spent for appraisals and "shall not be subject to the provisions of sections 79-2925 to 79-2935," the Kansas budget law. Thus, at the end of the 1975 budget year, the proceeds of the no-fund warrants could have been transferred to the special assessment equalization fund, and expended therefrom without regard to the budget law, or the lack of adopted budgetary authority therefor. If the proceeds of the no-fund warrants were placed in the general fund, however, expenditures from that fund could not exceed the amount budgeted for general fund expenditures, in my judgment, absent an express provision excepting assessment equalization expenditures. There is no such provision in K.S.A. 79-1607. The legislature has provided express exceptions to the budget law in the instance of certain no-fund warrant expenditures. For example, regarding warrants issued under K.S.A. 79-2951, K.S.A. 79-2952 expressly provides that "[n]one of the provisions of the budget law shall apply to any expenditures made, the payment of which has been provided for by the issuance of warrants under this act." A similar provision was made under K.S.A. 79-2547, for warrants issued under K.S.A. 79-2946, now repealed. There is no such provision in K.S.A. 79-1608, and presumptively, the expenditures of proceeds of no-fund warrants issued under K.S.A. 79-1607 which are deposited in the general fund to meet the costs of an appraisal contract must be supported by budgetary authority therefor.

When a levy is extended for the payment of warrants issued under K.S.A. 79-1906, the expenditure of the proceeds of that levy must be supported by budget authority, in my judgment, absent an express provision excepting those expenditures from the budget law. The levy is itself exempted from the tax

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limitations provided by article 19, chapter 79, K.S.A. It is not excepted from the budget law. Obviously, the levy must itself be certified to the county clerk as a part of the taxing process, and equally obvious, in my judgment, the proceeds from the levy must be appropriated by the adoption of appropriate provisions in the county budget for the expenditure of the monies derived therefrom. Amounts derived from the levy obviously must be budgeted, and taken into consideration by the county clerk in the administration of the aggregate levy limitation of K.S.A. 1975 Supp. 79-5001 *et seq.*, for K.S.A. 1975 Supp. 79-5011 exempts from that limitation levies to pay only those no-fund warrants which are issued with the approval of the State Board of Tax Appeals. A levy to pay warrants issued by the board of county commissioners under K.S.A. 79-1607 without approval of the Board of Tax Appeals are not exempt from the aggregate levy limitations of K.S.A. 1975 Supp. 79-5001 *et seq.*

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:en