



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

January 10, 1977

ATTORNEY GENERAL OPINION NO. 77-9

Mr. James J. Smith
Attorney at Law
610 Bridge
Humboldt, Kansas 66748

Re: Counties--Mental Health Centers--Levies

Synopsis: No county may extend a levy under the authority of K.S.A. 19-4004 for mental health and/or mental retardation services unless it has established a mental health center and appointed a governing board therefor under K.S.A. 19-4001 and -4002. All of the proceeds of any such levy must be turned over to the governing board so appointed, and under article 11, § 5 of the Kansas Constitution, the proceeds of any such levy may not be applied to any other purpose.

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Dear Mr. Smith:

Pursuing the matter raised in your earlier letter, and discussed in Opinion No. 76-365, you advise, further, that you understand that Labette County did include in its budget for fiscal 1977 a mill levy of .43 mills, under the authority of K.S.A. 19-4004. However, as you pointed out earlier, the county commissioners of that county have not informed the Southeast Kansas Mental Health Center that they intend to deliver to the center only one sixth of the amount so levied and budgeted for 1977. The Center has prepared and adopted its budget based upon the anticipation that the county would contribute its full share, or the entire proceeds from its mental health levy. Thus, you inquire whether the Center has any right to require delivery of the entire proceeds of the levy from Labette County.

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K.S.A. 19-4004 provides in pertinent part thus:

"In all counties wherein the board or boards of county commissioners in the event of a combination of counties has established a governing board, the respective board of boards of county commissioners may levy an annual tax upon all taxable tangible property in such county not in excess of one-half (1/2) mill on each dollar of assessed valuation of such property for mental health services."

In addition, a further levy of one-half mill may be made for mental retardation services, subject to the filing of a protest petition. This provision directs that "[t]he proceeds thereof shall be placed in the hands of the appropriate governing board to be administered as provided by this act."

The levy authorized by this section may be made only by a county which has established a governing board as provided in K.S.A. 19-4002, or by a county which has joined with other counties in doing so. At this point, we lack any specific information as to the plans of Labette County regarding mental health and/or mental retardation services for 1977. However, its use of the proceeds derived from any levy imposed under K.S.A. 19-4004 is restricted to the purposes enumerated therein. Article 11, § 5 of the Kansas Constitution states thus:

"No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied."

The purpose of the levies authorized by K.S.A 19-4004 for mental health and mental retardation services is to support the furnishing of those services by a governing board appointed pursuant to K.S.A 19-4002. All of the proceeds of any levy which is extended under the authority of that section are required by the constitution to be expended for that purpose, and are required by statute to be remitted to the governing board which administers

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the services supported by the levy. Because we have no specific and confirmed information regarding the 1977 Labette County levy for mental health and/or mental retardation services, we can draw no definite conclusions regarding its proposed course of action. Certainly, however, it is clear that all of the proceeds of any levy which is imposed by that county under K.S.A. 19-4004 must be turned over to the governing board of a mental health center, established pursuant to K.S.A. 19-4002, for its administration and expenditure.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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