



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

February 3, 1977

ATTORNEY GENERAL OPINION NO. 77- 40

Mr. James W. Clark
Franklin County Attorney
Franklin County Courthouse
Ottawa, Kansas 66067

Re: Emergency Medical Service--Counties--Levies

Synopsis: Any county and certain cities of the second class may make a levy of not to exceed two mills for the purpose of establishing and maintaining an emergency medical service under K.S.A. 1976 Supp. 65-4301 et seq. Any such levy is exempt from the aggregate levy limitations of K.S.A. 1976 Supp. 79-5001 et seq., the "tax lid," but may not be made until first authorized by the voters of the county.

* * *

Dear Mr. Clark:

You inquire concerning K.S.A. 1976 Supp. 65-4302. Subparagraph (a) thereof states thus:

"The board of [sic] governing body may establish, operate and maintain an emergency medical service as provided in this act as a county or city function and may contract with any person or governmental entity for the purpose of furnishing emergency medical services within or without the boundaries of the county or city upon such terms and

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conditions and for such compensation as may be agreed upon which shall be payable from the county or city general fund." [Emphasis supplied.]

The word "of" appearing in the first line of this subparagraph is a typographical error which does not appear in the bill as enacted. In ch. 334, § 1, L. 1975, the statute refers to the "board or governing body." [Emphasis supplied.] The term "board" is defined by K.S.A. 1976 Supp. 65-4301(f) thus:

"'Board' means board of county commissioners of any county."

The term "governing body" means "the governing body of any city of this state." K.S.A. 1976 Supp. 65-4301(g).

Subparagraph (b) of this section states thus:

"The board or the governing body of any second-class city having a population of more than six thousand (6,000) and less than seven thousand (7,000) located in any county having a population of more than one hundred eighty thousand (180,000) and less than two hundred thousand (200,000) is hereby authorized to make an annual tax levy of not to exceed two (2) mills upon all of the taxable tangible property within such taxing subdivision for the establishment, operation and maintenance of an emergency medical service under this act. Such tax levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the limitations upon the levy of taxes imposed by K.S.A. 1975 Supp. 79-5001 to 79-5016, inclusive." [Emphasis supplied.]

Whereas subparagraph (a) authorizes any board of county commissioners and the governing body of any city to establish an emergency medical service and to finance that service from the general fund, the authority to levy a tax of not to exceed two mills which

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is exempt from the aggregate levy limitations of K.S.A. 1976 Supp. 79-5001 et seq., commonly known as the "tax lid," is not so broad. It extends however, to all counties by virtue of the grant of authority to "[t]he board or governing body of any second-class city" within certain population and assessed valuation categories. The term "board" is defined, as indicated above, to mean the "board of county commissioners of any county. K.S.A. 1976 Supp. 65-4301(f). [Emphasis supplied.] Thus, while only certain cities of the second class may make the two mill levy outside the lid, every county may do so. Subsection (c) provides, as you point out, that any levy made under the authority of this section must first be approved by the voters.

To recapitulate, subparagraph (a) applies to any county or city, permitting the establishment of an emergency medical service and the financing thereof from the general fund; subparagraph (b) applies to every county and to certain cities of the second class, permitting a levy of not to exceed two mills to be made for that purpose, to be exempt from the aggregate levy limitations; subparagraph (c) applies, again, to any levy authorized by subparagraph (b).

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj