



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

February 28, 1977

ATTORNEY GENERAL OPINION NO. 77- 66

Mr. Myron L. Listrom  
Sloan, Listrom, Eisenbarth, Sloan & Glassman  
714 Capitol Federal Building  
700 Kansas Avenue  
Topeka, Kansas 66603

Re: Fire Districts--Levies--Maximum Limitations

Synopsis: K.S.A. 1976 Supp. 80-1520, as amended in 1973, permits the governing body of any fire district located in a county with a population of not less than 60,000 and not more than 100,000 to levy up to six mills upon the adoption and publication of an appropriate resolution. If such resolution recites that the authority for such increased levy applies to the current and subsequent years, such resolution, if unchallenged by a protest petition and election, constitutes authority for such increased levy in subsequent years.

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Dear Mr. Listrom:

As counsel for the Topeka-Tecumseh Fire District of Shawnee County, Kansas, you inquire concerning K.S.A. 80-1520.

Prior to its amendment in 1973, this provision authorized the governing body of any fire district organized under the act to levy not to exceed five mills, with the exception that the governing body of any fire district which is located all in Johnson County could levy not to exceed 7 1/2 mills. In 1973, the governing body of fire districts in counties having a population of not less than 60,000 and not more than 100,000 were empowered to levy not to exceed six mills. The maximum levy rate for

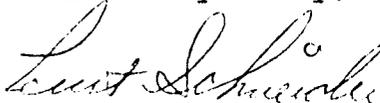
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Johnson County fire districts and for districts located in other counties having a population of less than 60,000 and more than 100,000 remained unchanged. Also in 1973, a lengthy paragraph was added to the section providing for publication of notice of any increase in the tax levy authorized by the section, opportunity for filing a protest petition and the holding of an election thereon. Under the language of the paragraph, "[n]o such increase in the tax levy authorized by this section shall be made under the provisions of this section" until the necessary publication is made.

You ask what meaning is to be given this quoted language, inasmuch as there appears to be no provision for an increased levy above the three maximum limits prescribed by the statute. The only increase authorized by the 1973 amendment was in the amount of one mill, raising the maximum levy limits of districts in counties with a population of not less than 60,000 and not more than 100,000 from five mills to six mills. This being the only increase authorized by the 1973 amendment, it is my opinion that the last paragraph of K.S.A. 1976 Supp. 80-1520 requires publication, opportunity for protest petitions and the holding of an election upon the levy of any amount in excess of five mills in fire districts in counties having a population of not less than 60,000 and not more than 100,000.

Lastly, you ask whether it is necessary for the fire district to adopt a resolution each budget year reciting the intention of the governing body to levy the increase authorized by the 1973 amendment. In my judgment, a single resolution which specifies that the increased levy authority is not limited to only one taxing year may be adopted, and if unchallenged by a petition, constitutes authority for the levy of not to exceed six mills in the districts to which that limitation applies in subsequent years.

Yours very truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj