



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

August 15, 1977

ATTORNEY GENERAL OPINION NO. 77-261

Mr. Merle R. Bolton
Commissioner of Education
Department of Education
120 East Tenth Street
Topeka, Kansas 66612

Re: Taxation--Community Junior Colleges--Retailers' Sales Tax

Synopsis: On and after January 1, 1978, a community junior college district, all or part of which is located in a county levying a countywide retailers' sales tax, will not be entitled to share in the proceeds thereof, because the distributive share of the district in those proceeds is based upon the levy of tangible property taxes by the district which are subject to the lid in the preceding year. The 1977 legislature exempted all tangible property tax levies by such districts from the aggregate levy limitations comprising the tax lid, eliminating any basis for distribution of the proceeds of a countywide retailers' sales tax levied in 1978 to community junior college districts, unless and until corrective action is taken by the 1978 legislature.

* * *

Dear Commissioner Bolton:

With the enactment of 1977 Senate Bill 2228, see ch. 342, L. 1977, community junior college districts have been exempted from the aggregate levy limitations found at K.S.A. 1976 Supp. 79-5001 et seq., commonly known as the tax lid.

Mr. Merle R. Bolton
Page Two
August 15, 1977

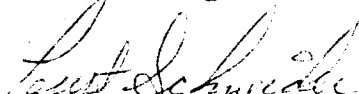
The question is raised whether community junior college districts may continue to share in the proceeds of a county-wide retailers' sales tax. K.S.A. 12-177 provides for the apportionment of the proceeds thereof in pertinent part as follows:

"(1) one-half of all revenue received by the county treasurer shall be apportioned among the county and each city and community junior college district all or a part of which is located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit, except funds, tax levies for which are not subject to the limitations imposed by this act, bear to the total of all such levies made in the preceding year" [Emphasis supplied.]

This provision was enacted as § 22 of ch. 393, L. 1973. The "limitations imposed by this act" refers to the aggregate levy limitations comprising the tax lid, which are found principally in sections 1 through 15 of that act. The measure of the county-wide retailers' sales tax proceeds to be apportioned to a community junior college district is fixed by the proportion that the total tangible property tax levies which are made by the county for the district and subject to the tax lid bears to the total tangible property tax levies which are in the county subject to the lid and imposed for the county, and cities and community junior college districts, all or any part of which is located in said county, in the preceding year.

Levies for community junior college districts which are imposed in 1977 are exempt from the tax lid, and thus in 1978, no levies which were imposed for community junior college districts in the preceding year will have been subject to the lid. As a result, having levied no taxes subject to the lid, community junior college districts will have no share in any county-wide retailers' sales tax levied on and after January 1, 1978, unless and until appropriate legislative action is taken to restore that entitlement.

Yours truly,


CURT T. SCHNEIDER
Attorney General