



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 7, 1978

ATTORNEY GENERAL OPINION NO. 78- 222

Mr. Charles Troppito
Director of Administration
7700 Mission Road
Prairie Village, Kansas 66208

Re: Cities--Tax Lid--Exemptions

Synopsis: Any taxing subdivision which has established a special fund pursuant to K.S.A. 75-4358 for the payment of either counsel and other defense costs under K.S.A. 75-4356 or insurance premiums authorized by K.S.A. 75-4357 may levy a tax for such fund which is exempt from the aggregate levy limitations of K.S.A. 79-5001 *et seq.*

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Dear Mr. Troppito:

You inquire whether under K.S.A. 75-4358, the costs of general liability and/or professional liability insurance premiums authorized to be paid by K.S.A. 75-4357 may be exempt from the aggregate levy limitations of K.S.A. 79-5001 *et seq.*

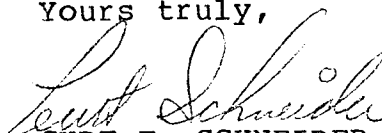
K.S.A. 75-4356 authorizes any political or taxing subdivision to provide legal counsel and to pay other necessary expenses for the defense of certain actions against its officers and employees. K.S.A. 75-4357 provides that in lieu of providing such counsel, the subdivision may "pay the premiums on insurance protecting its officers and employees in the event of such suit" K.S.A. 75-4358 provides that payments made for either of these purposes, *i.e.*, either for defense and counsel costs or for insurance premiums, shall be made either from the general operating fund or from a special fund created for that purpose,

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"and may place therein any moneys received by the political or taxing subdivision from any source whatsoever which may be lawfully utilized for such purpose including the proceeds of tax levies hereinafter authorized and provided. Whenever the governing body of any political or taxing subdivision of this state which is authorized to levy taxes upon property has established a special fund under the provisions of this section and shall determine that moneys from other sources will be insufficient to pay such costs the governing body is hereby authorized to levy an annual tax upon all taxable tangible property within the political or taxing subdivision in an amount determined by the governing body to be necessary for such purpose. All such tax levies shall be exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and shall not be subject to or limited by any other tax levy limitation prescribed by law."

Thus, when any taxing subdivision has established a special fund for the payment of either defense costs authorized by K.S.A. 75-4356 or insurance premiums authorized by K.S.A. 75-4357, and makes a levy for such fund, that levy is outside the aggregate levy limitations of K.S.A. 79-5001 et seq.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj