



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

July 26, 1979

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 155

Mr. Evan Nightingale  
Grant County Attorney  
Grant County Courthouse  
Ulysses, Kansas 67880

Re: Counties -- Taxation -- Levy for Historical Purposes.

Synopsis: The taxing provision for the preservation of historical records established by K.S.A. 1978 Supp. 19-2651, as amended by L. 1979, ch. 52, §114, does not prohibit the Grant County board of county commissioners from adopting a resolution increasing the levy from one-tenth of one mill to three-tenths of one mill on taxable tangible property. Although Grant County does not fall within the statutory criteria embracing population (7,800 to 8,200) and assessed tangible valuation (\$45,000,000 to \$48,000,000), it may by resolution increase its levy to three-tenths of one mill, but is not restricted to that maximum which is applicable to counties falling within those criteria.

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Dear Mr. Nightingale:

You inquire whether a resolution adopted by the Grant County board of county commissioners, which increases the tax levy for the preservation of historical records from one-tenth of one mill to three-tenths of one mill, is prohibited by the limiting provisions of K.S.A. 1978 Supp. 19-2651.

Since the resolution authorizing the increase was adopted, K.S.A. 1978 Supp. 19-2651 has been amended by L. 1979, ch. 52, §114, which provides in pertinent part:

Mr. Evan Nightingale  
July 26, 1979  
Page 2

"In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 1978 Supp. 12-1774, and amendments thereto, by cities located in the county, the board of county commissioners may levy an annual tax on all the taxable tangible property in the county. In counties having a population of not less than seven thousand eight hundred (7,800) and not more than eight thousand two hundred (8,200) and an assessed tangible valuation of more than forty-five million dollars (\$45,000,000) and less than forty-eight million dollars (\$48,000,000), such tax levy may be made in an amount not to exceed three-tenths of one mill on such property, and such tax levy within any such county 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. 79-5001 to 79-5016, inclusive, and amendments thereto.

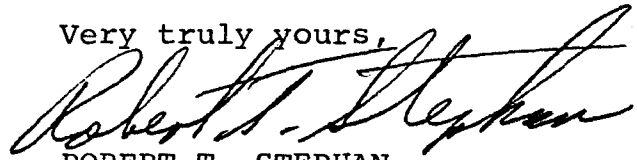
"No tax levy greater than the amount authorized by law prior to the effective date of this act shall be made under authority of this section until the county commissioners of the county proposing to make such levy shall have adopted a resolution specifying the tax levy proposed to be made and the proposition for which the tax will be levied. Such resolution shall provide that if a petition in opposition to the tax levy, signed by not less than ten percent (10%) of the qualified electors in the county, is filed with the county election officer within forty (40) days after the publication of the resolution, the tax levy will not be made unless first approved at a question submitted election which shall be called for that purpose or at the next general election." (Emphasis reflects the language added to the existing statute which became effective July 1, 1979.)

In view of the provisions of the second sentence of the foregoing enactment, it is our opinion that only those counties falling within the restrictive criteria embracing both population and assessed tangible property valuation are limited to a tax levy not to exceed three-tenths of one mill. Grant County, however, with a population of about 7,300, and an

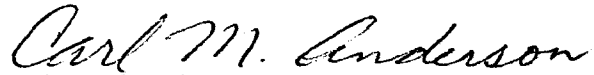
Mr. Evan Nightingale  
July 26, 1979  
Page 3

assessed valuation of well over \$100,000,000, does not fall within those restrictive parameters and is not bound by the referenced limitation. Thus, increasing the levy for the purpose of maintaining a museum facility, as per the resolution adopted by the board of county commissioners, is a valid exercise of the authority granted counties, so long as the resolution complied with the mandates of the second paragraph of the foregoing statute.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



CARL M. ANDERSON  
Assistant Attorney General

RTS:CMA:vls