



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

August 5, 1980

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

ATTORNEY GENERAL OPINION NO. 80- 179

The Honorable Roy Stewart  
Chairman, Bourbon County Board of County Commissioners  
Bourbon County Courthouse  
Fort Scott, Kansas 66701

Re: Roads and Bridges--Construction, Reconstruction and  
Repairs--Limitations on Tax Levies

Synopsis: A county may levy taxes pursuant to K.S.A. 1979 Supp. 68-559a, 68-1103 and 68-1135 for purposes of reconstruction of and repairs to existing bridges in the county, and for construction of new bridges, at the same time. The moneys derived from said tax levies may be used in combination for such purposes, except that expenditures of moneys derived under the provisions of K.S.A. 1979 Supp. 68-1103 are subject to two limitations imposed under that section. Cited herein: K.S.A. 1979 Supp. 68-559a, 68-1103, 68-1135.

\* \* \*

Dear Mr. Stewart:

You have requested our opinion whether the tax levies authorized by K.S.A. 1979 Supp. 68-559a, 68-1103 and 68-1135 may be used in combination for purposes of reconstruction and repairs to existing bridges and for construction of new bridges in Bourbon County.

K.S.A. 1979 Supp. 68-559a authorizes the annual levy of a one mill tax "for the purpose of construction and reconstruction of county roads and bridges" and characterizes the fund created thereby as a "special road and bridge fund." (Emphasis added.) K.S.A. 1979 Supp. 68-1103 specifically pertains to bridges and culverts. That section provides, in pertinent part:

"(a) Whenever the board of county commissioners of any county shall determine that it is necessary to build or repair any bridge or culvert, the county's

The Honorable Roy Stewart  
Page Two  
August 5, 1980

share of the cost of which shall be less than the sum of one hundred sixty thousand dollars (\$160,000), the board shall appropriate an amount equal to its share and shall immediately make all contracts for labor, material and all other expense necessary for the construction or repair. . . .

"(c) Such board is hereby authorized and expowered to levy and collect taxes for the purpose herein named or for the purpose of retiring any warrants that have been issued, which shall not exceed two (2) mills upon the assessed valuation of the county.

"(d) Under the provisions of this section those bridges which are situated across any stream on any county road are hereby declared to have a preference over the bridges on other roads and shall be repaired and reconstructed before any other bridges are repaired and reconstructed."  
(Emphasis added.)

Under K.S.A. 1979 Supp. 68-1135, the board of county commissioners is empowered to make an annual tax levy of two mills "for the purpose of creating and providing a special fund to be used in building and reconstructing bridges and constructing the approaches thereto."  
(Emphasis added.)

We are aware of no limitation in any of the above-quoted sections or elsewhere that would operate to preclude the county's use of moneys derived from the several tax levy funds in combination and at the same time for the purposes about which you have inquired. We emphasize that the use of moneys derived from the levy authorized by 68-1103 is subject to two important limitations: one, the county's share of costs of construction or repairs paid from such moneys may not exceed \$160,000; and two, bridges on county roads situated across streams in the county are to be repaired and reconstructed before other bridges in the county. These limitations, however, apply only to the expenditures of moneys derived under the provisions of 68-1103. The levies authorized by 68-559a and 68-1135 are not so restricted.

Very truly yours,

  
ROBERT T. STEPHAN  
Attorney General of Kansas

  
Steven Carr  
Assistant Attorney General