



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

ATTORNEY GENERAL OPINION NO. 81- 1

The Honorable W. Edgar Moore  
State Representative, District 26  
1628 E. Sheridan Street  
Olathe, Kansas 66062

Re:        - Agriculture--County Fairs--Annual Levy for Fair  
             Association in Urban Area County; Disbursement of  
             - Funds

Agriculture--County Fairs--County Aid; Use for  
Payment of Premiums and Rewards

Synopsis: A county fair association established pursuant to K.S.A. 2-127 is an independent entity which is not subject to the direction and control of the board of county commissioners. Accordingly, moneys collected by the county as a result of the levy imposed for the association's behalf under K.S.A. 1979 Supp. 2-129i must be paid to the association, upon its request, to be spent as it deems necessary within the limits of the statute. Additionally, the receipt of such moneys does not prevent an association from being entitled to county funds for the payment of those expenses detailed at K.S.A. 2-129. Cited herein: K.S.A. 2-126, 2-127, 2-128, K.S.A. 1979 Supp. 2-129, 2-129i, 2-132, K.S.A. 2-133, 19-212, 19-229.

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Dear Representative Moore:

As State Representative for the 26th District, which includes Olathe, the site of the Johnson County Fair, you request our opinion on two

Questions regarding the expenditure of funds for fair-related purposes. You initially ask whether K.S.A. 1979 Supp. 2-129i requires that funds raised by the one-tenth mill levy be disbursed to the county fair association directly, or whether all expenditures may be paid by the county through a voucher system. Secondly, you inquire whether the existence of this levy prevents the county fair association from also receiving moneys for the payment of "premiums and rewards" as authorized by K.S.A. 1979 Supp. 2-129.

Your first inquiry involves the operation of K.S.A. 1979 Supp. 2-129i, which in pertinent part states:

"The board of county commissioners of any county designated as an urban area by K.S.A. 19-2654 and in which there is a county fair association officially recognized by the state board of agriculture, upon request of the fair association may make an annual tax levy of not to exceed one-tenth (1/10) mill upon all the taxable tangible property of the county for the purpose of raising funds to be used for the purchase of land and the erection and maintenance of buildings and improvements thereon, including construction of streets and sewers for such fair association[.]

". . . The amounts collected by the county for the purposes hereinbefore specified from tax levies, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 1979 Supp. 12-1774, and amendments thereto, by cities located in the county, shall be paid to the fair association, upon request of the association." (Emphasis added.)

The language underscored above is at the crux of the question, for you inform us that the county now wishes to establish a voucher system whereby it, rather than the county fair association, would actually disburse the amounts collected from the levies. Upon consideration of the relationship between these two entities, it is our conclusion that such an arrangement is not authorized by statute for the following reasons.

The board of commissioners in each Kansas county are admittedly given broad powers over the conduct of county business. Two of these powers, which are set out at K.S.A. 19-212, include:

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"Second. To examine and settle all accounts of the receipts and expenses of the county, and to examine and settle and allow all accounts chargeable against the county; . . .

. . . .

"Sixth. To represent the county, and have the care of the county property, and the management of the business and concerns of the county, in all cases where no other provision is made by law."

In addition, K.S.A. 19-229 gives the commission exclusive control of all county expenditures.

In our opinion, however, the expenditure of moneys by the county fair association cannot be considered an expense of the county. As established pursuant to K.S.A. 2-127, a county fair association is a non-profit corporation which is created, not by the county commission, but by the efforts of individual county residents, who elect their own directors to manage the affairs of the association (K.S.A. 2-128). Likewise, official recognition for such an association comes from the ~~the~~ board of agriculture and not the commission, with the latter's role limited to the actual mechanics of imposing the one-tenth mill tax levy following a request by the fair association that such be imposed. Such a situation is to be contrasted with that found under K.S.A. 1979 Supp. 2-132 and K.S.A. 2-133, where the county commission is involved directly with the operation of a county-owned "free fair," which is managed by a board of directors who are appointed by the commission and who act subject to their approval.

In view of the clear distinction which is drawn by statute between these two methods of operating a county fair, we cannot conclude that the Johnson County Fair Association is but another arm of the Johnson County government, and hence subject to the commissioners' control in matters of finance. K.S.A. 1979 Supp. 2-129i states that, following the collection of the funds raised by the levies, the county is to pay them to the fair association upon the latter's request. While this language, when read by itself, might allow a voucher system to be instituted, when read in pari materia with the other statutes dealing with fair associations set forth above, in our opinion it does not authorize the type of county control over expenditures which such a procedure would entail. If a fair association requests the payment of the funds collected, the county commission must therefore turn the desired amount over to the control of the fair association.

Your second inquiry concerns the operation of the above-cited statute,

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K.S.A. 1979 Supp. 2-129i, with that of K.S.A. 1979 Supp. 2-129. The latter statute entitles a fair association to the use of county funds for the payment of "premiums and awards" given at the county fair, together with certain costs incurred in printing and the paying of judges' fees. You inquire whether the receipt by the fair association of the proceeds of the mill levy under 2-129i precludes it from also having the expenses detailed at 2-129 paid by the county.

In our opinion, these statutes are independent of one another in their operation, in that they deal with the expenditure of funds for different purposes. While the language of 2-129 refers to the payment of premiums and awards, 2-129i is limited to the expenditure of money "for the purchase of land and the erection and maintenance of buildings and improvements thereon, including construction of streets and sewers." In the absence of any indication that it was the intent of the Legislature to prevent a fair association from receiving funds for both of these distinct purposes, we are not prepared to so conclude.

In conclusion, a "county fair association established pursuant to K.S.A. 2-127 is an independent entity which is not subject to the direction and control of the board of county commissioners. Accordingly, moneys collected by the county as a result of the levy imposed for the association's behalf under K.S.A. 1979 Supp. 2-129i must be paid to the association, upon its request, to be spent as it deems necessary within the limits of the statute. Additionally, the receipt of such moneys does not prevent an association from being entitled to county funds for the payment of those expenses detailed at K.S.A. 1979 Supp. 2-129.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:phf