



STATE OF KANSAS

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June 23, 1982

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ATTORNEY GENERAL OPINION NO. 82- 137

James R. Cobler, Director
Division of Accounts and Reports
Department of Administration
First Floor, State Office Building
Topeka, Kansas

Re: Cities and Municipalities--Miscellaneous Provisions--
Employee Benefits Contribution Fund and Tax Levy

Synopsis: Since the legislature did not exempt the tax levy authorized by K.S.A. 1981 Supp. 12-16,102(c) from the aggregate mill levy limitation prescribed in K.S.A. 79-1962, any levy made pursuant to said subsection must be included in the aggregate mill levy limitation prescribed in the latter statute. Cited herein: K.S.A. 1981 Supp. 12,16,102, K.S.A. 79-1962, 79-5001.

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Dear Mr. Cobler:

You seek an opinion concerning the following question: If the board of trustees of a township, in accordance with the authority conferred by K.S.A. 1981 Supp. 12-16,102, establishes an employee benefits contribution fund and levies a tax to provide moneys for said fund, is the tax levy included in the aggregate mill levy limitation prescribed in K.S.A. 79-1962?

K.S.A. 79-1962, in part relevant to your inquiry, provides:

"[T]he aggregate of all tax levies of any . . . township except for the payment of bonds and interest thereon, and levies

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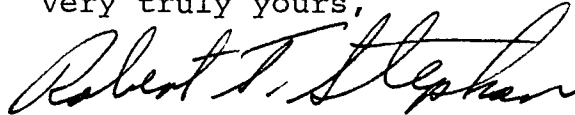
for cemeteries or parks, the control and eradication of noxious weeds, and levies for roads and bridges is hereby limited to 2.50 mills on each dollar of assessed tangible valuation of such township, except that in townships in counties operating under the county road unit system the aggregate of all tax levies, except for the payment of bonds and interest thereon, and levies for maintenance of cemeteries or parks, and levies for control and eradication of noxious weeds, and levies for roads and bridges is hereby limited to .50 mill on each dollar of assessed tangible valuation of such township."

It is to be noted that while the above quoted statute excepts numerous tax levies from the calculation of the aggregate levy limitation, the levy authorized by K.S.A. 1981 Supp. 12-16,102(c), concerning employee benefits contribution, is not excepted.

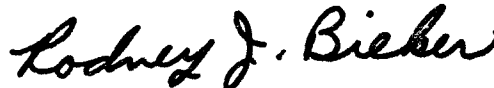
Moreover, while subsection (c) of K.S.A. 1981 Supp. 12-16,102 states, in part, that taxes levied by a city or county pursuant to that section shall be exempt from the limitation imposed by K.S.A. 79-5001 to 79-5016, inclusive, the subsection does not mention townships, and is devoid of any reference to the tax levy limitation prescribed in K.S.A. 79-1962.

Since the legislature did not exempt the tax levy authorized by subsection (c) of K.S.A. 1981 Supp. 12-16,102 from the aggregate mill levy limitation prescribed in K.S.A. 79-1962, we must conclude that if a board of trustees, in accordance with subsection (c) of K.S.A. 1981 Supp. 12-16,102, levies a tax for an employee benefits contribution fund, said levy must be included in the aggregate mill levy limitation prescribed in K.S.A. 79-1962.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm