



STATE OF KANSAS

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April 12, 1984

ATTORNEY GENERAL OPINION NO. 84- 34

James R. Cobler, Director  
Division of Accounts and Reports  
Kansas Department of Administration  
State Office Building  
Topeka, Kansas 66612

Re: Taxation--Miscellaneous Provisions--Budgets of  
Taxing Bodies; Application of Act

Synopsis: As a general rule, a "special district" that certifies a tax levy or budget to another political subdivision, but which does not directly levy a tax, is not subject to the Kansas budget law, K.S.A. 1983 Supp. 79-2925 et seq. Cited herein: K.S.A. 19-2716, K.S.A. 1983 Supp. 19-27a01 et seq., K.S.A. 1983 Supp. 79-2925, 80-1514, 80-1524, 80-1540.

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Dear Mr. Cobler:

You request our opinion as to whether certain "special districts," enumerated in Exhibit "A" attached hereto, are subject to the Kansas budget law, K.S.A. 1983 Supp. 79-2925 et seq.

Many of the special districts about which you inquire do not levy a tax directly, but certify a budget or levy to a city, county or township which then levies the tax. The Kansas Supreme Court has twice considered the applicability of the budget law in such a situation.

In Fort Scott Board of Library Directors v. Drake, 147 Kan. 157 (1938), the question presented was whether a library board was a

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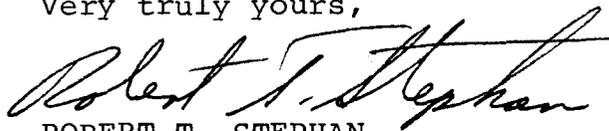
taxing subdivision within the provisions of G.S. 1949, 79-2925. The library board was an independent body, and, by statute, the governing body of the parent city was required to levy a tax in such amount as was prescribed by the directors of the library board. The Kansas Supreme Court held that the library board was not a taxing subdivision, and stated as follows at syllabus 2:

"The board of directors of a public library, which had no authority to levy taxes, was not changed into a taxing subdivision of the state by the language used in the budget law. (G.S. 1935, 79-2925)."

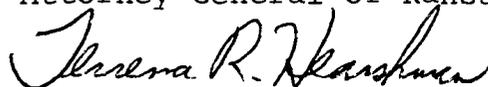
In State, ex rel., v. Belt, 175 Kan. 330 (1953), a similar situation existed with regard to the county agriculture extension council, which was authorized to adopt a budget to be presented to the board of county commissioners. The board of county commissioners was required to certify to the county clerk the amount of tax necessary to be levied for said budget. The court held that the county agriculture extension council was not a taxing subdivision and that the budget prepared was not subject to the budget law.

In accordance with the above-cited cases, it is our opinion that, as a general rule, a "special district" that certifies a tax levy or budget to another political subdivision, but which does not directly levy a tax, is not subject to the budget law. Most of the special districts listed in the attachment to your letter appear to fall within this classification. However, with regard to several districts included within your inquiry (i.e., fire districts organized pursuant to K.S.A. 1983 Supp. 80-1514, K.S.A. 80-1524, 80-1540 and K.S.A. 19-2716, and sewer districts organized pursuant to K.S.A. 1983 Supp. 19-27a01 et seq.), it appears that the township board or board of county commissioners acts as the governing body of the district and levies a tax in that capacity. In these instances, it is our opinion that said districts are taxing subdivisions and are subject to the budget law.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:BJS:TRH:jm  
Attachment

# EXHIBIT "A"

<u>Special District</u>	<u>Organization Statute</u>	<u>Levy Statute</u>
AIRPORT	K.S.A. 3-162	K.S.A. 3-167
AMBULANCE	65-4302	65-4302
CEMETERY	12-1401	12-1403
		12-1405
	15-1013	15-1015
	17-1330 <u>et seq.</u>	17-1330
		17-1334
		17-1336
		79-1962
FIRE	19-3605 <u>et seq.</u>	19-3610
	80-1501 <u>et seq.</u>	80-1503
		80-1503a
		80-1503b
	80-1514	80-1520
	80-1529	80-1533
		80-1537
	80-1540	80-1546
	80-1901 <u>et seq.</u>	80-1903
		79-1962
HOSPITAL	80-2101 <u>et seq.</u>	80-2106
	80-2113 <u>et seq.</u>	80-2125
		80-2127
	80-2133 <u>et seq.</u>	80-2145
	80-2147	
LIBRARY	12-1231	12-1234
		79-1947
LIGHTING	19-2717	19-2717
SEWER		10-113
	19-2704 <u>et seq.</u>	19-2704a
		19-2709
	19-2733 <u>et seq.</u>	19-2736
		19-2751
		19-27,123
	19-3538	19-3541
WASTE WATER	19-2733 <u>et seq.</u>	19-27,108
	19-3538	19-3541
ZONING	19-2902	19-2911