



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

February 18, 1985

ATTORNEY GENERAL OPINION NO. 85- 18

Senator Joseph C. Harder, Chairman  
Joint Committee on State Building  
Construction  
Room 143-N, State Capitol  
Topeka, Kansas 66612

Re: Constitution of the State of Kansas--Public  
Institutions and Welfare--Tax Levy for Certain  
Institutions

State Institutions and Agencies; Historical  
Property--State Tax Levies for Buildings--  
Tax Levy for Certain State Institutions

State Institutions and Agencies; Historical  
Property--Kansas Soldiers' Home--Persons  
Admitted

Synopsis: The state property tax imposed under K.S.A.  
76-6b04 and deposited in the state institutions  
building fund is levied for the use and benefit  
of state institutions caring for persons who are  
mentally ill or visually handicapped or who have  
a handicapping hearing loss. The Kansas Soldiers'  
Home is a state institution caring for such persons.  
Therefore, moneys in the state institutions building  
fund may be used for improvements at the Kansas  
Soldiers' Home. Cited herein: K.S.A. 76-6b04,  
76-6b05, 76-1902b, 76-1908, 76-1936; Kan. Const.,  
Art. 7, §6.

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Dear Senator Harder:

On behalf of the Joint Committee on State Building Construction, you seek our opinion on whether moneys in the State Institutions Building Fund may be used to pay for capital improvement projects at the Kansas Soldiers' Home. The money in this fund is derived from the levy of a property tax by the state legislature pursuant to the authority conferred by Article 7, Section 6 of the Kansas Constitution. This section of the constitution, in relevant part, provides:

"The legislature may levy a permanent tax for the creation of a building fund for institutions caring for those who are mentally ill, retarded, visually handicapped, with a handicapping hearing loss, tubercular or for children who are dependent, neglected or delinquent and in need of residential institutional care or treatment and for institutions primarily designed to provide vocational rehabilitation for handicapped persons . . . ."

Pursuant to this constitutional authorization, the legislature levies a tax which is to be used for, and to benefit,

". . . , state institutions caring for persons who are mentally ill, retarded, visually handicapped, with a handicapping hearing loss or tubercular or state institutions caring for children who are deprived, wayward, miscreant, delinquent, children in need of care or juvenile offenders and who are in need of residential care or treatment, or institutions designed primarily to provide vocational rehabilitation for handicapped persons." K.S.A. 76-6b04.

In K.S.A. 76-6b05, the legislature has prescribed:

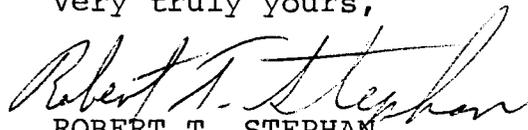
"All moneys received by the state treasurer under K.S.A. 76-6b04, shall be credited to the state institutions building fund, which is hereby created, to be appropriated by the legislature as needed for the construction, reconstruction, equipment and repair of buildings and grounds at institutions specified in K.S.A. 76-6b04." (Emphasis added.)

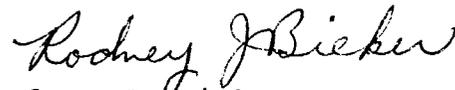
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It appears, therefore, that if the Kansas Soldiers' Home is an institution of a type specified in K.S.A. 76-6b04, proceeds from the tax levied under that statute may be used for capital improvement projects at the home. In our opinion, it is clear from a review of the statutes concerning the home and designating its purposes that the Soldiers' Home is an institution of the type described in K.S.A. 76-6b04.

The statutes concerning the Soldiers' Home are found at K.S.A. 76-1901 et seq. A review of these statutes reveals that the home was established in the late nineteenth century to serve as a place to care for "disabled" soldiers and sailors and their dependents. See, e.g., K.S.A. 76-1902b and 76-1908. Subsequently, the legislature prescribed that the home also could be used to care for veterans who were mentally ill and who were patients at certain state hospitals. See K.S.A. 76-1936. Accordingly, the Kansas Soldiers' Home is a state institution that provides care for "disabled" and mentally ill persons. Moreover, it is obvious the term "disabled" as used in K.S.A. 76-1901 et seq. includes persons who are visually handicapped or have a handicapping hearing loss. Thus, the Soldiers' Home provides care for persons designated in K.S.A. 76-6b04. Consequently, we believe the Kansas Soldiers' Home is an institution for which funds in the State Institutions Building Fund may be expended under K.S.A. 76-6b05.

Very truly yours,

  
ROBERT T. STEPHAN  
Attorney General of Kansas

  
Rodney J. Bieker  
Assistant Attorney General

RTS:JSS:RJB:jm