



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 17, 1976

ATTORNEY GENERAL OPINION NO. 76- 64

Mr. Ted Hill
Sedgwick County Counselor
Sedgwick County Courthouse
525 North Main
Wichita, Kansas 67203

Re: Counties--Fire Districts--Levies

Synopsis: K.S.A. 19-3610(b) authorizes the board of county commissioners to submit thereunder to the voters the question whether a levy in excess of five mills, but not exceeding seven mills, may be levied for the operation of a fire district organized under K.S.A. 19-3601 *et seq.*, and when the electors approve a proposition authorizing such increased levy in "any year," a further election is not required in each subsequent year to authorize such increased levy.

* * *

Dear Mr. Hill:

K.S.A. 19-3601 *et seq.* authorizes the organization of fire districts by the board of county commissioners. K.S.A. 19-3610 authorizes the levy of an ad valorem tax therefor. Subsection (a) states in pertinent part thus:

"Except as otherwise authorized by this section, the board of county commissioners shall not in any year make a levy in any fire district in excess of five (5) mills upon the property in the district."

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Subsection (b) provides for a levy greater than five mills, but not to exceed seven mills, under certain circumstances:

"The board of county commissioners of any county may, whenever the same is authorized by a majority of the electors of any fire district voting at an election called and held thereon, levy a tax of more than five (5) mills but not more than seven (7) mills in any year upon the property within such district. Such election shall be question submitted election and shall be called and held in the manner provided for the calling and holding of elections upon the question of issuance of bonds under the provisions of K.S.A. 10-120."

We are advised that at a special election on July 15, 1975, a question was submitted to and approved by the eligible and qualified electors thus:

"Shall the Board of County Commissioners of Sedgwick County, Kansas, be authorized to increase the present authorized tax levy of not more than five (5) mills to not more than seven (7) mills in any year upon the property within Sedgwick County Fire District Number One?"

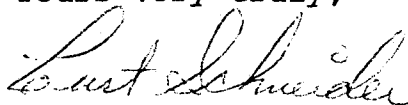
The question which is raised is whether, in order to levy in excess of five mills in any year subsequent to 1976, it is necessary that the question be submitted to the electors in each year in which such a levy is proposed.

Under the statute, the board may levy in excess of five mills, but not to exceed seven mills, "in any year" "when the same is authorized by a majority of the electors . . . voting . . . thereon. . . ." Certainly, the statute authorizes the submission of such a question, for a levy increase, for only a single year. However, it also authorizes an increased levy in "any year" for which the voters have given approval. It authorizes the submission of a question to the electors for an increased levy in one or more specified years, or for "any year." In this instance, the proposition which was submitted to the electors conformed precisely with the proposition which the statute authorizes to be submitted to them, and that proposition

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which was approved by the voters authorizes the making of the increased levy "in any year," including in any year subsequent to 1976.

Yours very truly,



CURT T. SCHNEIDER
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CTS:JRM:kj

cc: Mr. Earl Rush
Sedgwick County Commissioner
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