



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER
ATTORNEY GENERAL

October 9, 1978

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

ATTORNEY GENERAL OPINION NO. 78-322

Mr. Losson G. Pike
Clark County Attorney
Clark County Courthouse
Ashland, Kansas 67831

Re: Counties--Aggregate Levy Limitations--Revenue for Special
Bridge Fund

Synopsis: A county may by charter ordinance, pursuant to a 1977 opinion of this office, No. 77-272, exempt itself from the aggregate levy limitations of K.S.A. 79-5001 et seq. for the purpose of permitting the levy of additional taxes for the construction and maintenance of bridges.

Re: Township--Offices--Powers

Synopsis: There being no express statutory procedure governing the sale of a township hall not involving the sale of the land on which it is located, the township trustee may in the exercise of the general powers of that office at K.S.A. 80-109 negotiate and enter into a contract for the sale and removal of the building, or for the dismantling thereof and the sale of materials.

*

*

*

Dear Mr. Pike:

You inquire whether Clark County may exempt from the aggregate levy limitations of K.S.A. 79-5001 et seq., levies for the purpose of building and maintaining bridges. K.S.A. 68-1135 authorizes an annual levy of not to exceed two mills for that purpose, to be deposited in a special bridge fund. It further provides thus:

Mr. Losson G. Pike
Page Two
October 9, 1978

"Such tax levies shall be in addition to all other levies authorized by law and shall not be subject to or within any fund limit or aggregate tax levy limit prescribed by K.S.A. 1971 Supp. 79-1947."

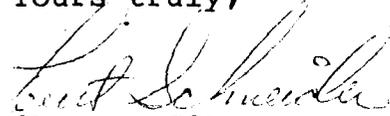
This language does not itself exempt the levy from the so-called "tax lid," for K.S.A. 79-5003 provides in part thus:

"All tax levies now or hereafter authorized by law to be made or hereafter authorized by law to be made by taxing subdivisions subject to the provisions of this act . . . shall be subject to the aggregate limitation prescribed hereunder unless the provisions of the act authorizing the levy specifically states that such levy is exempt from the limitation imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive."

However, we have held that the aggregate levy limitations of K.S.A. 79-5001 to -5013, are not imposed by an enactment which applies uniformly to all counties, and that a county may by charter ordinance exempt itself from the "lid" for the purpose of increasing levies to be made for a particular purpose, such as, *e.g.*, the special bridge fund. Thus, a charter ordinance. I enclose a photocopy of that opinion, No. 77-272.

You also inquire concerning the correct procedure to be followed by a township in the disposal of an old school building which was converted to a township hall but is now no longer in use. It is proposed to dispose only of the building itself, and not of the real estate upon which it is located. I find no statute dealing with the sale of the building itself, or providing a statutory procedure for the letting of a contract by the township for the dismantling of structures. K.S.A. 8-109 deals with the sale of lands, and is not applicable here. I suggest that the township trustee may negotiate a contract for the dismantling of the building in the exercise of its general powers under K.S.A. 80-301 for the sale of the building or for its dismantling and the sale of the materials.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj