



STATE OF KANSAS

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February 17, 1982

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ATTORNEY GENERAL OPINION NO. 82- 41

The Honorable J. F. Steineger  
State Senator  
Two Gateway Center, Suite 201  
Kansas City, Kansas 66101

Re: Counties and County Officers--Mental Health  
Centers--Levy Limitations

Synopsis: The levy rate limitation in K.S.A. 1981 Supp. 79-1947 on levies for mental health centers established under authority of K.S.A. 19-4004 does not apply to levies for mental health clinics established under authority of K.S.A. 65-212. Therefore, the Wyandotte County Board of County Commissioners may continue to make a one-fourth mill levy to retire general obligation bonds issued to establish the mental health clinic pursuant to K.S.A. 65-212, and may also issue general obligation bonds to establish a work training shop for the mentally retarded pursuant to K.S.A. 19-4004 and make an additional levy to pay off the principal and interest on those general obligation bonds. Cited herein: K.S.A. 19,4004, 65-212, K.S.A. 1981 Supp. 79-1947.

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Dear Senator Steineger:

On behalf of the Wyandotte County Board of County Commissioners, you have requested our opinion on whether the board may issue bonds to purchase a work training shop for the mentally retarded in accordance with K.S.A. 19-4004, and then make a one-fourth mill levy to retire the bonds. While normally this would not pose any problems, you inform us that the board is currently levying

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a tax at the rate of one-fourth mill to retire bonds which were issued in October of 1973 for the construction of facilities for a mental health clinic under then existing K.S.A. 65-212. In light of this, you inquire whether the board may continue to make the levy to retire the 1973 bond issue and, in addition, impose an additional levy to retire the bonds that are to be issued to build a work training shop for the mentally retarded, without violating the mill levy limitations prescribed in K.S.A. 1981 Supp. 79-1947.

K.S.A. 19-4004 authorizes boards of county commissioners to levy annual taxes on all taxable tangible property in the county for mental health services, mental retardation services, the purchase or construction of facilities for a community mental health center, and/or a facility for the mentally retarded, and to pay the principal and interest on bonds issues for such purposes, subject to the limitations set forth in K.S.A. 1981 Supp. 79-1947. K.S.A. 1981 Supp. 79-1947 limits the annual rate of tax a board of county commissioners can levy for buildings and facilities authorized by K.S.A. 19-4004 to one-fourth mill.

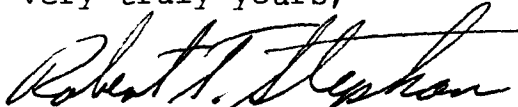
K.S.A. 65-212, on the other hand, authorizes a board of county commissioners to levy an annual tax to provide for the construction of facilities for a mental health clinic and to pay the principal and interest on bonds issued for that purpose. It is important to note that K.S.A. 65-212 relates to mental health clinics, whereas K.S.A. 19-4004 relates to mental health centers and facilities for the mentally retarded. Furthermore, at the time the mental health clinic involved herein was established, the tax levy limitation statute, K.S.A. 79-1947 (1973), allowed a one-fourth mill levy for buildings and facilities authorized by K.S.A. 19-4004 and also, in addition, a one-fourth mill levy for the construction of facilities authorized by K.S.A. 65-212. Also, it is pertinent that the current tax levy limitation statute, K.S.A. 1981 Supp. 79-1947, does not specify a tax levy limitation for facilities authorized by K.S.A. 65-212, but does limit the tax levy for facilities authorized by K.S.A. 19-4004 to one-fourth mill.

In light of this continued separate treatment of the two facilities by the legislature, and in light of the absence of any specific tax levy limitation on facilities authorized by K.S.A. 65-212, it is clear that the tax levy limitation in K.S.A. 1981 Supp. 79-1947 on facilities authorized by K.S.A. 19-4004 does not act as a limitation on facilities established under authority of K.S.A. 65-212. Therefore, it is our opinion that the board may continue its one-fourth mill levy to retire the bonds issued to establish the mental health clinic, and it may also issue bonds to establish a work training shop for the mentally retarded, in

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accordance with K.S.A. 19-4004, and make an additional levy  
to pay off the principal and interest on those bonds.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Donald E. Jensen  
Assistant Attorney General

RTS:BJS:DEJ:jm