



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

February 26, 1982

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

ATTORNEY GENERAL OPINION NO. 82-54

Philip E. Winter  
Assistant County Attorney  
Lyon County Courthouse  
Emporia, Kansas 66801

Re: Roads and Bridges -- Bridges; General Provisions --  
Multiple Tax Levies for Bridges

Synopsis: The taxes authorized by K.S.A. 68-1103 and K.S.A. 68-1135 are separate and distinct and may be levied simultaneously so long as the provisions of K.S.A. 79-5001 et seq., are followed. Cited herein: K.S.A. 68-1103, 68-1135, K.S.A. 1981 Supp. 79-1947, K.S.A. 79-5001, 79-5011.

\* \* \*

Dear Mr. Winter:

On behalf of the Lyon County Attorney, you request the opinion of this office regarding K.S.A. 68-1103 and K.S.A. 68-1135. Both sections authorize the levy of up to two (2) mills for the purpose of bridge construction and repair. You inquire whether the tax authorized under 68-1135 creating a special fund to retire bridge bonds is separate from, and in addition to, the tax authorized by K.S.A. 68-1103.

We think the answer to your query is provided in the language of the statutes. Without quoting the rather lengthy sections, we call attention to language of K.S.A. 68-1103 authorizing a tax levy, not exceeding two (2) mills, to pay up to \$160,000 in the repair of county bridges or culverts. Such moneys also may be raised and expended annually to pay no-fund warrants issued for that purpose. See K.S.A. 68-1103(c).

The tax levy authorized by K.S.A. 68-1135 creates

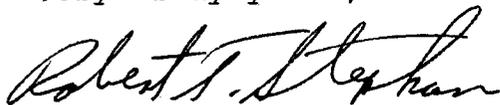
"a special fund to be used in building and reconstructing bridges and constructing the approaches thereto or to be used in repaying loans or advances received from the highway fund and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 1979 Supp. 12-1774, and amendments thereto, by cities located in the county."

Although both taxes may be levied and used for bridge construction, each may be used for other, separate and distinct purposes, not common to both. See VIII Kan. Att'y Gen. Op. 870 (1973). Moreover, the latter section provides that it is to be levied in addition to all other taxes authorized by law.

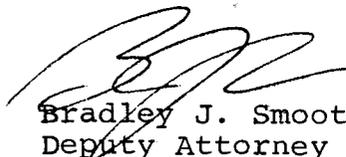
Hence, the county may levy up to two (2) mills pursuant to K.S.A. 68-1135. However, we would provide one caveat. Although 68-1135 exempts the two mill levy authorized therein from the aggregate levy limitations of K.S.A. 1979 [1981] Supp. 79-1947, neither this section nor 68-1103 is exempted from the provisions of K.S.A. 79-5001 et seq. These statutes should be consulted in determining whether the two levies may be made in a given year. Finally, we would note the terms of K.S.A. 79-5011 which exempt tax levies from these provisions where the levy is to pay the principal or interest on bonds. See VIII Kan. Att'y Gen. Op. 866 (1973). Note also that K.S.A. 75-5001 et seq., is subject to county charter resolution. See Kan. Att'y Gen. Op. No. 78-322 (1978).

Therefore, it is our opinion that the taxes authorized by K.S.A. 68-1103 and K.S.A. 68-1135 are separate and distinct and may be levied simultaneously so long as the provisions of K.S.A. 79-5001 et seq., are followed.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Bradley J. Smoot  
Deputy Attorney General