



STATE OF KANSAS

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March 21, 1983

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ATTORNEY GENERAL OPINION NO. 83- 37

The Honorable Anita G. Niles  
State Representative, Seventeenth District  
Room 278-W, Statehouse  
Topeka, Kansas 66612

Re: Agriculture -- Agricultural Societies and Fairs --  
Use of Tax Levy

Counties and County Officers -- County Buildings  
-- Tax Levy for 4-H Club Buildings

Synopsis: The constraints imposed by Article 11, Section 5 of the Constitution of the State of Kansas preclude the use of proceeds from the tax levies authorized by K.S.A. 2-131b and 19-1561 to fund the operations of a county fair association established and operating pursuant to K.S.A. 2-125 et seq. Cited herein: K.S.A. 2-125, 2-129, 2-129c, 2-129e, 2-129g, 2-131b, 2-132, 19-1561.

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Dear Representative Niles:

You have requested the opinion of this office regarding whether a board of county commissioners may implement the provisions of K.S.A. 2-131b and 19-1561, to fund a county fair association which is officially recognized by the Kansas State Board of Agriculture and which has, as a part of its fair, some 4-H Club activities.

K.S.A. 2-131b provides in relevant part:

"The board of county commissioners of any county in which there is a fair association or a society which is organized and operating under the provisions of K.S.A. 2-125 to 2-131, inclusive, and amendments thereto, upon request

of such fair association or society is hereby authorized and empowered to make an annual tax levy of not to exceed five-tenths of one mill upon all the taxable tangible property of the county for the purpose of raising funds to be used for the erection and maintenance of buildings of such a fair association having obtained recognition from the state board of agriculture as an official county fair association and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county." (Emphasis added.)

K.S.A. 19-1561 provides in relevant part:

"The board of county commissioners of any county is hereby authorized to make an annual levy of not to exceed one mill upon all tangible property of the county for the purpose of creating and providing a building fund to be used for the acquiring of a site for, the erecting and equipping of, and the furnishing of a building or buildings to be used for 4-H club purposes, livestock shows, and other agricultural or civic activities 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. Said levy may be made annually for a period of not to exceed two years. The tax herein authorized shall be in addition to all other levies authorized or limited by law." (Emphasis added.)

Article 11, section 5 of our state constitution provides as follows:

"No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied."

This constitutional provision was discussed in School District v. Clark County Comm'rs, 155 Kan. 636 (1942), as follows: "Where money is raised by a levy of taxes for a specific purpose it may not be diverted to another purpose . . . ." Id. at Syl. 3.

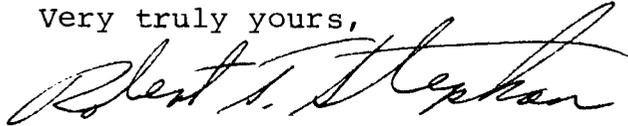
We recognize that the nature of county fair activities and 4-H club activities may be closely related, or, in some instances, synonymous. However, the statutes you specify as

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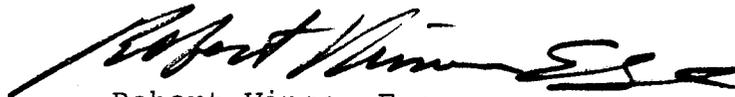
possible sources of financial support for a county fair association are not intended for any purpose other than erection or maintenance of buildings for 4-H or county fair activities. Neither K.S.A. 2-131b nor 19-1561 allows proceeds from the respective tax levies specified therein to be utilized for the purpose of "funding a county fair association." Financial support for a county fair association's activities, not involving acquisition, erection or maintenance of buildings, is provided for at K.S.A. 2-179, 2-129c, 2-129e, 2-129g, 2-129, and 2-132. The expenditure of proceeds from tax levies by county fair associations for purposes other than building construction is, therefore, distinguishable from the purposes specified in K.S.A. 2-131b.

In summary, considering the constraints of Article 11, Section 5 of the Constitution of the State of Kansas, we must conclude that proceeds from the tax levies authorized by K.S.A. 2-131b and 19-1561 may not be utilized to fund the operations of a county fair association established and operating pursuant to K.S.A. 2-125 et seq.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Robert Vinson Eye  
Assistant Attorney General

RTS:BJS:RVE:hle