



STATE OF KANSAS

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June 14, 1985

ATTORNEY GENERAL OPINION NO. 85- 64

Larry D. Tittel
Attorney at Law
112 S. Pennsylvania
Ness City, Kansas 67560

Re: Townships and Township Officers -- Hospitals and Health
Care Facilities -- Levy for Hospitals

Synopsis: K.S.A. 80-2516 provides that a hospital board governed
by its terms may determine and fix an annual tax to be
levied for the purpose of operating, equipping,
maintaining and improving the hospital. In accord
with the law applicable to all taxing subdivisions,
the hospital board certifies the levy to the
appropriate county clerk who collects the tax in the
district and pays the money so collected over to the
treasurer of the hospital district. Cited herein:
K.S.A. 12-1678a; K.S.A. 1984 Supp. 19-4606; K.S.A.
79-1801, 80-2113 (repealed L. 1984, ch. 374) 80-2125
(repealed L. 1984, ch. 374), 80-2501, 80-2502,
80-2508, 80-2516.

* * *

Dear Mr. Tittel:

As attorney for Ness County Hospital District No. 2, you have
requested our opinion regarding tax levies to support the
hospital.

You advise that Ness County Hospital District No. 2 was
organized pursuant to K.S.A. 80-2113 et seq., (repealed L.
1984, ch. 374). In 1975, this office issued an opinion which
concluded that, because the hospital district was not a taxing

subdivision, it was not necessary for the district to prepare an annual budget in accordance with the general budget law. (Opinion No. 75-272.) The hospital district was not a taxing subdivision because the relevant statutes required the district to certify the amount of taxes to be levied to the county commissioners who then levied the tax in the district. The county clerk paid the tax so collected to the treasurer of the hospital district. K.S.A. 80-2125 (repealed L. 1984, ch. 374).

Citing changes in the law applicable to county hospitals, you ask whether the hospital district (which elects its board of directors) is now a taxing subdivision responsible for levying the appropriate taxes. Your question is based upon K.S.A. 1984 Supp. 19-4606, which provides in part:

"The [county] commission or, in the case of an elected [hospital] board, the board may annually levy a tax for the purpose of operating, maintaining, equipping and improving any hospital managed and controlled under the provisions of this act"
(Emphasis added.)

It does not appear from the information you present that Ness County Hospital District No. 2 is governed by K.S.A. 1984 Supp. 19-4606 or the act of which the statute is a part.

The original statutes governing the district (K.S.A. 80-2113 et seq.) were repealed by chapter 374 of the laws of 1984. Chapter 374, now codified at K.S.A. 80-2501 et seq., provides that an "existing hospital" means:

". . . a hospital established under the provisions of article 21 of chapter 80 of Kansas Statutes Annotated and acts amendatory of the provisions thereof . . . and being maintained and operated on the effective date of this act." K.S.A. 80-2501(d).

K.S.A. 80-2502 further provides:

"(a) Any existing hospital district and any existing hospital established under the laws of this state prior to the effective date of this act are hereby continued in existence and shall be governed in accordance with the provisions of this act, and any existing board shall be deemed to be the board for purposes of this act unless and until a new board is

selected in accordance with the provisions of this act." (Emphasis added.)

Thus, it appears that the hospital district you represent is now governed by K.S.A. 80-2501 et seq. Board members continue to be selected as provided by the repealed statutes until a change in that method is effected pursuant to K.S.A. 80-2508. See also, K.S.A. 80-2507.

K.S.A. 80-2516 pertains to tax levies by hospitals governed by the act, and provides that the board, regardless of the method of selecting its members, may:

". . . determine and fix an annual tax to be levied for the purpose of operating, equipping, maintaining and improving the hospital. Subject to the provisions of subsection (b), such tax shall not exceed two mills or the amount authorized to be levied in the year 1983, whichever is the greater amount. The board shall certify such levy to the county clerk of the county wherein the greater portion of territory of the taxing district is located. The county clerk to whom the levy is certified shall certify the final tax levy rate computed pursuant to K.S.A. 79-1803 and amendments thereto of such taxing district to the county clerk of every other county in which a part of the territory of such taxing district is located. Such tax levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to the aggregate tax levy limitation imposed by law upon the political subdivision." (Emphasis added.)

It appears that the procedures for the levy remain essentially the same. The hospital board determines and fixes its annual tax and certifies the levy to the clerk of the county where the greatest portion of the district is located who, in turn, certifies the levy to the clerk of each county in which the hospital district is located. K.S.A. 80-2516(c) further provides:

"(c) All taxes collected for a hospital district shall be distributed and paid to the treasurer of the board of such hospital district in the manner provided for distribution of taxes pursuant to K.S.A.

12-1678a and amendments thereto. The treasurer of the hospital district upon receiving such money shall issue a receipt to the county treasurer and the county clerk of the county sending such money. The county clerk of the county sending such money, upon receiving such a receipt, shall notify the board of county commissioners of such county, and it shall give the county treasurer proper credit therefor."

It thus appears, while the procedures for making the levy remain essentially the same, that the hospital district, as governed by the new law, may be considered a taxing subdivision. The relevant statutes no longer require the hospital levy to be certified to the board of county commissioners so that they may make the levy. Instead, in accordance with the law applicable to all taxing subdivisions, the district determines and certifies the levy to the appropriate county clerk who collects the tax and distributes it according to law. See K.S.A. 79-1801, 12-1678a.

Very truly yours,



ROBERT T. STEPHAN
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Mary F. Carson
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