



STATE OF KANSAS

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ATTORNEYGENERAL OPINION NO. 88- 94

Mr. Daniel L. Love  
Ford County Attorney  
Courthouse  
P.O. Box 1057  
Dodge City, Kansas 67801

Re: Taxation -- Property Valuation, Equalization,  
Assessment -- Tax Levy to Pay Costs of Reappraisal

Counties and County Officers -- County Appraiser --  
Costs of Complying with Act; Tax Levy

Synopsis: K.S.A. 1987 Supp. 79-1482 permits a tax levy in order to fund the costs of conducting the countywide reappraisal program in compliance with the act. In order to comply with the act, certain costs and activities will necessarily occur after the year 1989. Thus, K.S.A. 1987 Supp. 79-1482 authorizes and permits a levy to be made in years subsequent to 1989. Cited herein: K.S.A. 19-436; K.S.A. 1987 Supp. 79-1482; 79-1476.

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Dear Mr. Love:

As Ford County Attorney you request our opinion on the appropriate tax levy for funding reappraisal costs incurred after 1989. We understand that you ask this question in light of concerns that a continued reappraisal tax levy could later be challenged as illegal because the initial reappraisal of all county property must be completed by 1989. However, we note, that after 1989 the act also mandates certain new

requirements in connection with continuing reappraisal of properties.

K.S.A. 1987 Supp. 79-1482 authorizes a tax levy as follows:

"The board of county commissioners of each county is hereby authorized to levy a tax upon all taxable tangible property in the county in an amount necessary to pay all costs incurred in conducting programs of countywide reappraisal and complying with the provisions of this act. Such tax levies shall not be included in computing the aggregate tax levies of the county and are exempt from the limitations imposed under the provisions of K.S.A. 79-5001 to 79-5016, inclusive, and amendments thereto. The proceeds of such tax levies shall be credited to a special countywide reappraisal fund and shall be used only for the purposes of implementing the provisions of this act. . . ." (Emphasis added).

This statute contains no specific time limitations. Rather, the levy is authorized for the specific purpose of paying for "all costs incurred in conducting programs of countywide reappraisal and complying with provisions of this act" and "shall be used only for the purposes of implementing the provisions of this act." Implement is defined as "to carry out, to give practical effect to and insure actual fulfillment by concrete measures." Webster's Seventh New Collegiate Dictionary 419 (1969). Thus, once the program is complete and all provisions of the act are met, the levy is no longer authorized.

Moneys raised pursuant to a specific tax levy cannot be diverted to another fund or use. Kan. Const., Art. 11, § 5; K.S.A. 79-2934. See also Gridley v. Woodson County Comm'rs, 155 Kan. 407, 411 (1942). Thus, whether or not the law permits this tax levy can be determined by examining the costs incurred in order to comply with the reappraisal act. This requires analysis of the reappraisal act so as to determine what future activities, if any, are statutorily required.

K.S.A. 1987 Supp. 79-1476 mandates that "the county appraiser shall have the duty of reappraising all of the real

property in the county pursuant to guidelines and timetables prescribed by the director of property valuation and of updating the same on an annual basis. . . . Following completion of the statewide program of reappraisal, every parcel of real property shall be actually viewed and inspected by the county or district appraiser once every four years." (Emphasis added). The statute goes on to establish certain time deadlines for the completion of the initial reappraisal. However, the act also mandates updating property valuation. Thus, provisions of this act require the county to perform certain activities in the future.

K.S.A. 19-436 authorizes a tax levy in order to fund the costs connected with the office of county or district appraiser. Moneys may be properly expended from this fund in order to pay costs "incurred by the county in complying with the requirements of this act." If the county or district appraiser requires funding for costs not connected with the reappraisal act, K.S.A. 19-436 authorizes an alternative tax levy.

K.S.A. 1987 Supp. 79-1482 authorizes a tax levy to fund all costs incurred in conducting countywide reappraisal and complying with the act. In order to comply with the act, certain activities and connected costs must necessarily occur after 1989. As the statute allows a tax levy in order to fund the costs of complying with the act, and as the act requires certain activities and therefore costs to occur in the future, it is our opinion that such future costs may be properly funded pursuant to the tax levy authorized by K.S.A. 1987 Supp. 79-1482.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Theresa Marcel Nuckolls  
Assistant Attorney General