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ATTORNEY GENERAL OPINION NO. 91- 100

Ted D. Ayres
General Counsel
Kansas Board of Regents
Suite 609, Capitol Tower
400 S.W. Eighth
Topeka, Kansas 66603-3911

Re: Taxation--Aggregate Tax Levy Limitations--County
Extension Council Employee Benefit Plan Expenses

Synopsis: Levies for county extension council employee
benefit plan expenses are exempted from the
limitations of K.S.A. 79-5021 et seq., and
amounts produced from such levies should not be
considered in computing the county's aggregate
limitation. Cited herein: K.S.A. 1990 Supp:
79-5022; 79-5028; 79-5032.

* * *

Dear Mr. Ayres:

You request our opinion regarding:

"1. Whether employee benefits of the County Extension Council
are exempt from the limitations contained in K.S.A. 79-5021
thru 5035; and

"2. If so, whether the costs for a given year can all be
exempted for that year, even though they may have accumulated
over a period of two or three years."

K.S.A. 1990 Supp. 79-5022 provides for the suspension of all existing statutory fund mill levy rates and aggregate levy limitations on taxing subdivisions. Aggregate levies and fund mill levy limits may be increased only pursuant to the provisions of K.S.A. 79-5021 et seq. The sunset date for these provisions was extended to July 1, 1993 by 1991 House Bill No. 2222. L. 1991, ch. 279, § 3.

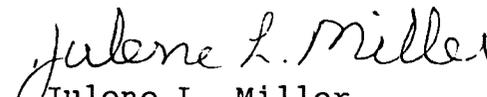
County extension council levies are subject to modification or reduction by the county. K.S.A. 1990 Supp. 2-610. Thus, county extension councils are not independent taxing subdivisions (see Attorney General Opinions No. 87-167; 89-20; 91-46A) and levies therefore should be considered in computing the county's aggregate limitation unless the levies or the county are exempted from the provisions of the tax lid. K.S.A. 79-5032 does not apply to county extension councils.

Nevertheless, levies to pay for "employer contributions for social security, workers compensation, unemployment insurance, health care costs, employee benefit plans and employee retirement and pension programs" (K.S.A. 1990 Supp. 79-5028, emphasis added) are not to be considered in computing the aggregate limit. There is nothing in the language of the exception to indicate that it does not extend to the county extension council's employee benefit plan costs. [Compare K.S.A. 1990 Supp. 79-5028(d), (e).]

Further, the exemption applies to the levy of the taxes and computation of the aggregate limitation: "The provisions of K.S.A. 79-5021 to 79-5035 . . . shall not apply to or limit the levy of taxes for the payment of . . . employee benefit plans. . ."; "[a]mounts produced from any taxes levied for purposes specified in this section shall not be used in computing any aggregate limitation under the provisions of this act." K.S.A. 1990 Supp. 79-5028. Thus the exemption first applies in the year the levy is made, and amounts carried over continue to be exempted from computation of the county's aggregate limitation.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General