

Approved 4/26/89
Date

MINUTES OF THE House COMMITTEE ON Taxation x Keith Roe

The meeting was called to order by Representative Keith Roe at
Chairperson

4:00 ~~xxx~~ p.m. on April 6, 1989 in room 519-S of the Capitol.

All members were present except:

Representative Reardon, excused
Representative Spaniol, excused

Committee staff present:

Tom Severn, Research
Chris Courtwright, Research
Don Hayward, Revisor's Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Senator Lee
Representative Littlejohn
Bob Runnels, Kansas Catholic Bishop's Office

Senator Lee testified in support of SB 327, stating that she is in favor of permitting those recreation districts newly-created in 1989 to make a property tax levy for the first time in 1989 even though they had failed to exempt themselves from the reappraisal tax lid on their ballot. (Attachment 1)

Representative Littlejohn testified in support of SB 327, and requested a conceptual motion to exempt the Phillips County Hospital from the property tax lid. He also submitted the Attorney General Opinion No. 89-20. (Attachment 2)

Chairman Roe concluded the hearing on SB 327.

Bob Runnels testified in support of SB 374, stating that it was their belief that the legislature intended that convents should pay no tax, past or future. (Attachment 3)

Chairman Roe concluded the hearing on SB 374.

A motion was made by Representative Aylward; seconded by Representative Lowther to introduce a bill similar to SB 129 regarding vehicle registration fees. The motion carried.

A motion was made by Representative Smith; seconded by Representative Lowther to conceptually amend SB 327 to exempt the Phillips County Hospital mill levy from the property tax lid. The motion carried.

A motion was made by Representative Vancrum; seconded by Representative Guldner to pass SB 327 as amended. The motion carried.

A motion was made by Representative Lowther; seconded by Representative Vancrum to amend HB 2529 to strike lines 23 through 41 through the word "created;" to strike lines 46, 47 and 48 beginning with the word "shall" and ending with the words "purposes and the;" strike the word "are" in line 49; and to add changes as shown in attached balloon. The motion carried.

A motion was made by Representative Lowther; seconded by Representative Vancrum to pass HB 2529 as amended. The motion failed with a count of 9 yes and 9 no votes.

The minutes of March 28, 1989, were approved.

The meeting adjourned.

To: House Taxation Committee

From: Senator Janis K. Lee

RE: SB 327

Date: April 6, 1989

Chairman Roe, fellow Legislators, SB 327 was introduced at the request of the Norton Joint Recreation System. On August 2, 1988 the citizens of the city of Norton and the Unified School District # 211 voted to establish a joint district recreation system. As can be seen, the ballot did include an annual tax not to exceed one mill. However, the ballot did not include any provisions concerning the tax lid. Consequently, the Norton Recreation System has no way to raise any operating funds for 1989 even though the ballot passed by the citizens would indicate they were willing to accept the one mill levy.

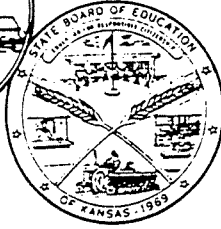
SB 327 as presented contains only the changes on lines 86 thru 89 of page 3. This change would permit those recreation districts newly-created in 1988 to make a property tax levy for the first time in 1989 even though they had failed to exempt themselves from the reappraisal tax lid on their ballot. This bill would not affect those recreation districts already in existence before 1988 or any recreation districts started after the tax lid is lifted.

4/6/89
attachment 1

Kansas State Department of Education

Kansas State Education Building

120 East 10th Street Topeka, Kansas 66612-1103



February 8, 1989

TO: Ben Barrett, Legislative Research Department
✓ Tom Severn, Legislative Research Department
Chris Courtright, Legislative Research Department
Bill Ervin, Municipal Accounting
Barbara Butts, Municipal Accounting
Veryl Peter, LEA Finance

FROM: Dale M. Dennis, Asst. Commissioner

SUBJECT: U.S.D. #211, Norton

Attached is a copy of the ballot for the primary election in U.S.D. #211, Norton, which we discussed earlier this week. It appears the ballot did not include any provisions concerning the tax lid.

STATE OF KANSAS
PRIMARY ELECTION BALLOT
SPECIAL QUESTION
ELECTION
QUESTION SUBMITTED

PRIMARY ELECTION
NORTON COUNTY

WARD # 2

August 2, 1988

To vote for the proposition, place an "X" in the square following "Yes". To vote against the proposition, place an "X" in the square following "No".

SHALL THE FOLLOWING BE ADOPTED?

Shall the governing bodies of the City of Norton, Kansas and Unified School District No. 211, Norton County, Kansas, provide, establish, maintain, and conduct a joint district recreation system, levy an annual tax, not to exceed one mill, and do all other acts necessary to establish, operate, maintain and conduct a joint recreation system in accordance with K.S.A. 12-1922, et seq.

YES

NO

13

1987 PROPERTY VALUES
BY DISTRICT

COUNTY # 069

NTY NAME NORTON
DISTRICT NAME NORTON COMMUNITY SCHOOLS

DISTRICT # D0211

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
	1987 ASSESSED VALUATION	% OF TOTAL OF COL 1	ESTIMATED MARKET VALUE OF EACH PROPERTY CLASS	% OF TOTAL OF COL 3	ESTIMATED ASSESSED VALUATION AFTER REAPPRAISAL	% OF TOTAL OF COL 5	PROPOSED ASSD VAL- HCR-5018AA	% OF TOTAL OF COL 7
<u>URBAN REAL ESTATE</u>								
1. COMMERCIAL & INDUSTRIAL	1,069,695	7.4	6,211,934	6.0	1,863,580	6.0	1,863,580	13.3
2. VACANT LOTS	30,940	.2	328,799	.3	98,640	.3	39,456	.3
3. ALL OTHER URBAN REAL ESTATE	3,626,735	25.2	28,898,287	27.9	8,669,486	27.9	3,467,794	24.8
4. TOTAL URBAN REAL ESTATE	4,727,370	32.8	35,439,020	34.2	10,631,706	34.2	5,370,830	38.3
<u>RURAL REAL ESTATE</u>								
5. AGRICUL LAND(INCL MIN RES)	3,285,825	22.8	39,398,381	38.0	11,819,514	38.0	3,151,870	22.5
6. AGRICUL IMPROVEMENT	550,320	3.8	4,917,962	4.7	1,475,389	4.7	590,155	4.2
7. HOMESITES & PLANNED SUBDIV	311,355	2.2	3,926,293	3.8	1,177,888	3.8	471,155	3.4
8. SPOT INDUSTR, COMM, & RECR	198,580	1.4	2,137,567	2.1	641,270	2.1	641,270	4.6
9. TOTAL RURAL REAL ESTATE	4,346,080	30.2	50,380,203	48.6	15,114,061	48.6	4,854,450	34.7
10. TOTAL REAL ESTATE	9,073,450	63.0	85,819,223	82.8	25,745,767	82.8	10,225,280	73.0
<u>TANGIBLE PERS PROPERTY</u>								
11. GAS & OIL(LEASE-HOLD & ROY)	729,945	5.1	2,433,150	2.3	729,945	2.3	729,945	5.2
12. MERCHANTS INVENTORY	620,930	4.3	2,069,767	2.0	620,930	2.0	0	.0
13. MANUFACTURERS INVENTORY	194,930	1.4	649,767	.6	194,930	.6	0	.0
14. LIVESTOCK	511,490	3.6	1,704,967	1.6	511,490	1.6	0	.0
15. BUSINESS MACHINERY & EQUIP	448,690	3.1	1,495,633	1.4	448,690	1.4	224,345	1.6
16. ALL OTHER TANG PERS PRPTY	650,185	4.5	2,167,283	2.1	650,185	2.1	650,185	4.6
17. TOTAL TANGIBLE PERS PRPTY	3,156,170	21.9	10,520,567	10.2	3,156,170	10.2	1,604,475	11.5
<u>STATE ASSESSED</u>								
18. PUBLIC SERVICE CORPORATION	2,175,848	15.1	7,252,827	7.0	2,175,848	7.0	2,175,848	15.5
19. TOTAL STATE ASSESSED	2,175,848	15.1	7,252,827	7.0	2,175,848	7.0	2,175,848	15.5
20. GRAND TOTAL	14,405,468	100.0	103,592,617	100.0	31,077,785	100.0	14,005,603	100.0

1-1

MARVIN L. LITTLEJOHN
 REPRESENTATIVE, 119TH DISTRICT
 PHILLIPS AND PART OF
 NORTON AND ROOKS COUNTIES
 14 SOUTHWEST SECOND
 PHILLIPSBURG, KANSAS 67661



TOPEKA

HOUSE OF
 REPRESENTATIVES
 February 6, 1989

COMMITTEE ASSIGNMENTS
 CHAIRPERSON: PUBLIC HEALTH AND WELFARE
 MEMBER: INSURANCE
 ELECTIONS
 JOINT COMMITTEE ON ADMINISTRATIVE
 RULES AND REGULATIONS

The Honorable Robert T. Stephan
 Attorney General
 Kansas Judicial Center
 Topeka, Kansas 66612-1597

Dear General Stephan:

Inasmuch as legislation has been prepared regarding the following issues, I respectfully request your opinion regarding them as soon as possible.

Phillips County owns a County Hospital, which is operated by a Hospital Board of Trustees appointed by the Phillips County Commissioners under the authority of K.S.A. 19-4601, et. seq. The County has heretofore levied an annual tax of two mills for the operation of the Hospital and seeks to increase the tax levy to six mills under the authority of K.S.A. 19-4606 for the budget year 1990 and thereafter.

Is the County Hospital is a "taxing subdivision", as defined in K.S.A. 79-5021, to which the aggregate tax levy limitation set forth in K.S.A. 79-5022 applies?

If the County Hospital is a "taxing subdivision", to which the aggregate tax levy limitation applies, is the mill levy authorized by K.S.A. 19-4606 exempt from the aggregate tax levy limit set forth in K.S.A. 79-5022, et. seq?

X
 K.S.A. 79-5022 (b) appears to create a tax levy limit, but excludes certain levies set forth in K.S.A. 79-5028. The levy authorized by K.S.A. 19-4606 is not listed in K.S.A. 79-5028 or K.S.A. 79-5028 (a) as a levy which is exempt from the new aggregate tax levy limitation. The second sentence of Subsection (d) of K.S.A. 79-5022 provides, however, that the tax levy limit applies to all existing tax levies except levy authorizations exempted from the provisions of K.S.A. 79-5001 to 79-5016, inclusive. The provisions of K.S.A. 19-4606 specifically provide that it is not subject to or within the limitations imposed by K.S.A. 79-5001 to 79-5016, inclusive.

Sincerely,

Marvin L. Littlejohn
 Marvin L. Littlejohn
 Representative-119th District

MLL/sh

4/6/89
attachment 2



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 21, 1989

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

ATTORNEY GENERAL OPINION NO. 89- 20

The Honorable Marvin L. Littlejohn
State Representative, One Hundred Nineteenth District
State Capitol, Room 426-S
Topeka, Kansas 66612

Re: Taxation--Aggregate Tax Levy Limitations--
Suspension of Statutory Fund and Levy Limitations

Synopsis: County hospitals operated by elected boards of trustees are taxing districts for purposes of K.S.A. 1988 Supp. 79-5021 et seq. As such, these hospitals may levy in 1989 an amount not in excess of the dollar amount levied by them in 1988. Beginning in 1990, such hospitals' levies are exempted from the aggregate tax levy limitation. County hospitals operated by appointed boards of trustees are not taxing districts in and of themselves, but levies for these hospitals must be included in calculating the counties' aggregate tax levy limitations in 1989. Beginning in 1990, levies for county hospitals with appointed boards of trustees will be exempted from the calculation of the counties' aggregate tax levy limitations. Cited herein: K.S.A. 19-4601; 19-4606; 79-5001 et seq.; K.S.A. 1988 Supp. 79-5021; 79-5022; 79-5028; 79-5032; L. 1988, ch. 393, §2; L. 1985, ch. 314, §12.

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4/6/89
Attachment 2 2

Dear Representative Littlejohn:

You request our opinion regarding the application of K.S.A. 1988 Supp. 79-5022, the current aggregate tax levy limitation, to the Phillips county hospital. You advise that the county hospital is operated by a board of trustees appointed by the Phillips county commission pursuant to K.S.A. 19-4601 et seq. The county has previously levied an annual tax in the amount of two mills for the hospital and seeks to increase the levy to six mills under the authority of K.S.A. 19-4606 for the budget year 1990 and thereafter. You question whether this will be possible in view of K.S.A. 1988 Supp. 79-5021 et seq.

K.S.A. 1988 Supp. 79-5022 provides as follows:

"(a) In the reappraisal year and in each year thereafter, all existing statutory fund mill levy rate and aggregate levy limitations on taxing subdivisions are hereby suspended.

"(b) Except as otherwise provided in K.S.A. 1987 Supp. 79-5024 to 79-5027, inclusive, and amendments thereto, in the reappraisal year, no taxing subdivision shall certify to the county clerk of the county any tax levies upon tangible property, excluding levies specified in K.S.A. 1987 Supp. 79-5028, and amendments thereto, which in the aggregate will produce an amount in excess of the amount which was levied by such taxing subdivision in the prior year.

"(c) In each year after the reappraisal year, the fund levy limits shall be increased by multiplying the dollar amount produced by the levy limit for the year prior to the reappraisal year by the quotient determined by dividing the assessed tangible valuation amount of the current year by the assessed tangible valuation amount of the reappraisal year.

"(d) Except for adjustments described in K.S.A. 1987 Supp. 79-5024 to 79-5027,

inclusive, and amendments thereto, in each year after the reappraisal year the aggregate levy limits for cities and counties shall be the authorized aggregate levy limit in effect for the year prior to the reappraisal year. All tax levies existing or authorized hereafter by law, except those levies specifically exempt pursuant to K.S.A. 1987 Supp. 79-5028, and amendments thereto, or levy authorizations exempted from the provisions of K.S.A. 1987 Supp. 79-5021 to 79-5027, inclusive, and amendments thereto, or levy authorizations exempted from the provisions of K.S.A. 79-5001 to 79-5016, inclusive, as existing prior to January 1, 1989, shall be subject to the aggregate limit prescribed hereunder." (Emphasis added).

You first ask whether the county hospital is a "taxing district" to which the aggregate tax levy limitation applies. The term "taxing district" is not defined in K.S.A. 1988 Supp. 79-5021 et seq. However, we have opined previously that the term "taxing district" includes any entity which can mandatorily require another entity to make a levy to benefit the people or property within its territory. Attorney General Opinion No. 87-167. See also cases cited therein. Pursuant to K.S.A. 19-4606, a county hospital operated by an elected board of trustees would clearly fit within this definition, but a hospital operated by an appointed board of trustees does not appear to have the ultimate decision-making authority when it comes to whether to tax or how much of a tax will be levied. Thus, Phillips county hospital may not be a "taxing district" for purposes of applying the tax lid. Phillips county, however, is a taxing district and is subject to the limitations imposed by K.S.A. 1989 Supp. 79-5022. If the county hospital is not itself a taxing district, its 1988 levy, unless otherwise exempted, will be figured in the county's aggregate levy limitation for the 1990 budget year. K.S.A. 1988 Supp. 79-5032. Thus, while Phillips county may levy more for the hospital in 1989 than was levied in 1988, it may do so only if the aggregate dollar amount produced for all funds does not exceed the aggregate dollar amount levied by the county in 1988. See Attorney General Opinion No. 87-163, 87-158; Minutes of the House Committee on Taxation, March 25, 1988.

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The question thus becomes whether the county hospital's levy is exempted from the provisions of K.S.A. 1988 Supp. 79-5021 et seq. K.S.A. 1988 Supp. 79-5022 was significantly amended in the 1988 Session to lift the tax levy freeze beginning in the year after the reappraisal year. L. 1988, ch. 393, §2. Beginning in 1990, taxing subdivisions will revert back to the authorized aggregate levy limit in effect for the year prior to the reappraisal year; tax levies specifically exempt pursuant to K.S.A. 1988 Supp. 79-5028, levy authorizations exempted from the provisions of K.S.A. 1988 Supp. 79-5021 et seq. and levy authorizations previously exempted from the provisions of K.S.A. 79-5001 through 79-5016 will be exempt from the aggregate levy limitation. The levy authorization for county hospitals was exempt from the provisions of K.S.A. 79-5001 through 79-5016. K.S.A. 19-4606. Thus, beginning with the 1990 levy for the 1991 budget year, the levy for the Phillips county hospital will be exempt from the Phillips county aggregate tax levy limitation.


While the legislature clearly intended to loosen the lid beginning with the 1990 levies, we find no documentation of an intent to loosen the lid in the year of reappraisal. As explained in Attorney General Opinion No. 87-158, the intent of the lid enacted in 1985 (L. 1985, ch. 314, §12) was to prevent a windfall of unknown proportions to local units of government due solely to increased valuations. Neither the language of the act nor the 1988 legislative history disclose any indication of an intent to the contrary. It is therefore our opinion that the 1988 amendments to K.S.A. 79-5021 et seq. did not effect the freeze placed on levies for the year 1989. The levy for operation of a county hospital is not listed in K.S.A. 1988 Supp. 79-5028 as one of the exceptions to K.S.A. 1988 Supp. 79-5022(b) and thus must be included in calculating the aggregate tax levy limitation for Phillips county in 1989 for the budget year 1990. For county hospitals which are themselves taxing districts, their 1989 levies will be limited to the dollar amount levied for the hospital in 1988.


In conclusion, county hospitals operated by elected boards of trustees are taxing districts for purposes of K.S.A. 1988 Supp. 79-5021 et seq. As such, these hospitals may levy in 1989 an amount not in excess of the dollar amount levied by them in 1988. Beginning in 1990, such hospitals' levies are exempted from the aggregate tax levy limitation. County hospitals operated by appointed boards of trustees are not taxing districts in and of themselves, but levies for these

2.5
2-11

hospitals must be included in calculating the counties' aggregate tax levy limitations in 1989. Beginning in 1990, levies for county hospitals with appointed boards of trustees will be exempted from the calculation of the counties' aggregate tax levy limitations.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

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TESTIMONY

Senate Bill 374

House Taxation Committee
Thursday, April 6, 1989

KANSAS CATHOLIC CONFERENCE

By: Robert Runnels, Jr., Executive Director

In the 1988 legislative session by the provision of H.B. 2651 the legislature exempted convents from property tax; one of the provisions limited that exemption to apply after December 31, 1987. It was at least our belief that the legislature intended that convents should pay no tax, past or future. With the contemporaneous consideration of the prototype of Substitute for S.B. 491, it was our understanding that the legislature desired the two acts to complement each other to effect a continuous tax exemption - abatement for such structures. Substitute for S.B. 491 was enacted as K.S.A. 79-213a and provides exemption and abatement for those taxes only prior to January 1, 1987. In other words, there is a gap for the year 1987.

We ask this legislature and particularly this committee to favorably support corrective language in Senate Bill 374.

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4/6/89
Attachment 3

HOUSE BILL No. 2529

By Committee on Taxation

2-28

6/16/89
Attachment 4

15
16 AN ACT relating to property taxation; exempting certain property
17 used for manufacturing, research and development or goods or
18 commodity storage purposes.

19 *Be it enacted by the Legislature of the State of Kansas:*

20 Section 1. The following described property, to the extent herein
21 specified, shall be exempt from all property or ad valorem taxes
22 levied under the laws of the state of Kansas:

23 ~~(a) The board of county commissioners of any county or the~~
24 ~~governing body of any city may, by resolution or ordinance, as the~~
25 ~~case requires, exempt from all ad valorem taxation all or any portion~~
26 ~~of the appraised valuation of: (1) All buildings, together with the~~
27 ~~land upon which such buildings are located, and all tangible personal~~
28 ~~property associated therewith used exclusively by a business for the~~
29 ~~purpose of: (A) Manufacturing articles of commerce; (B) conducting~~
30 ~~research and development; or (C) storing goods or commodities which~~
31 ~~are sold or traded in interstate commerce, which commences op-~~
32 ~~erations after December 31, 1987; or (2) all buildings, or added~~
33 ~~improvements to buildings constructed after December 31, 1987,~~
34 ~~together with the land upon which such buildings or added im-~~
35 ~~provements are located, and all tangible personal property purchased~~
36 ~~after such date and associated therewith, used exclusively for the~~
37 ~~purpose of: (A) Manufacturing articles of commerce; (B) conducting~~
38 ~~research and development; or (C) storing goods or commodities which~~
39 ~~are sold or traded in interstate commerce, which is necessary to~~
40 ~~facilitate the expansion of any such existing business, if, as a result~~
41 ~~of such expansion, new employment is created. Property rented or~~
42 ~~leased, with or without an option to purchase, from a community~~
43 ~~based not-for-profit economic development corporation organized un-~~

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14 der the laws of this state which is exempt from federal income
 45 taxation pursuant to section 501(c)(6) of the federal internal revenue
 46 code of 1986, as in effect on January 1, 1989, ~~shall be deemed to~~
 47 ~~be used exclusively for the purposes of this section if such property~~
 48 ~~is actually used only for such purposes and the Moneys received~~ must be
 49 from such rental or lease ~~are~~ used solely for economic development
 50 purposes by such corporation ← in the county wherein lies the principal offices of the corporation.

51 (c) ~~(b)~~ Any ad valorem tax exemption granted pursuant to subsection
 52 (a) shall be in effect for not more than 10 calendar years after the
 53 calendar year in which the business commences its operations or
 54 the calendar year in which expansion of an existing business is com-
 55 pleted, as the case requires. (b) For the purposes of this Section, community based not-for-profit economic
 development corporation shall mean a corporation organized and existing
 solely for the purpose of engaging in economic development activities and,
 improving the economic climate of the county wherein lies the corporations
 principal place of business.

56 (d) ~~(c)~~ The provisions of this section shall apply to all taxable years
 57 commencing after December 31, 1987. renting or leasing such property

58 Sec. 2. This act shall take effect and be in force from and after
 59 its publication in the statute book.

46 - 48, 49, 3