

**OPINION  
42-37**

August 31, 1942 (OPINION)

CITIES

RE: Levies for Band

Your letter of August twenty-fifth, wherein you ask whether the band law means that the commission should levy an additional tax for the maintenance of the city band instead of taking it out of the regular budget, has been referred to me.

Our present law governing tax levy limitations of cities is Chapter 210 Session Laws of 1941. This reads as follows:

The aggregate amount levied for general city purposes shall not exceed such an amount as will be produced by a levy of fourteen mills on the next taxable assessed valuation of property in the city, provided that in cities supporting bands or public libraries, an additional levy not to exceed two mills on the net taxable assessed valuation of property in such cities may be made for those purposes; provided further, that in cities supporting bands, public libraries and airports a levy, in addition to the above fourteen mills, but not to exceed three mills on the net taxable assessed valuation of property in such city may be made for these purposes."

While the section above set out is quite ambiguous, the question becomes much more involved when a study is made of Chapter 270 S.L. 1927, permitting a tax levy for municipal bands, and Chapter 92 S.L. 1931, providing for municipally-owned airports. The courts do not favor repeals by implication. However, I believe that Chapter 210 S.L. 1941 supplants the other two acts, and as the law now stands, cities supporting the three enterprises named, bands, libraries, and airports, must maintain enterprises within a three-mill levy, and that the fourteen-mill levy for general city purposes means purposes other than bands, libraries and airports.

Chapter 210, as you will notice, provides that an additional two mills may be levied where cities support bands or public libraries, which would mean either or both. It then allows a three-mill levy where they support bands, public libraries, and airports jointly. I therefore believe that the amount permitted for airport purposes would be one mill, and that two mills or so much thereof as is necessary, must be allocated to the band and library, in such amounts as the commission acting as a budget board deems necessary.

ALVIN C. STRUTZ  
Attorney General