

# ***ROBERT J. PERRY, ESQ.***

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## **MEMO**

TO: Denis George, CEO

FROM: Bob Perry

RE: No-Fund Warrants for Kansas taxing entities that support hospital health care services.

Dennis, this memo is a short synapses of four (4) statutes which may be used by taxing entities which experience an unforeseen occurrence that causes revenues in a current budget year to be insufficient to finance the expenditures budgeted for. Some counties or cities in Kansas use several different statutory provisions to fund several funds dedicated to health care services so it may be possible to stack the different funds if each stacked fund is experiencing unforeseen circumstances causing the shortfall. There are other statutory provisions for example *K.S.A. §12-110a* permits cities or counties to issue no-fund warrants to acquire replacement machinery and equipment, including ambulances. However, each of these address specific situations. The four I address here are fairly flexible for general expenses.

*K.S.A. §§79-2938 & 79-2939* are quite similar in approach. An unforeseen circumstance has to be identified as causing a shortfall in the fund and the other budgeted expenditures of the entity cannot be reduced in an amount to make up the shortfall. A super majority of the entity's governing body approves applying to the Kansas Board of Tax Appeals (BOTA) requesting permission to issue a no-fund warrant to cover the shortfall. BOTA then determines if the unforeseen circumstance in light of the adopted budget permits issuance of no fund warrant. There is to be a hearing before BOTA concerning issuing the warrants and any taxpayer may protest the request. Each statute has certain limitations on the amount of revenue permitted to be raised with no-fund warrant proceeds and length of time to pay back the warrant. It would be best that each governing body ascertain which of these two statutes would best serve their particular situation. However, in my opinion, neither statute prohibits the number of applications or the stacking of funds and statutory authority.

*K.S.A. §19-4626* and *K.S.A. §80-2519* respectively permit the Board of County Commissioners or Hospital Boards of hospital districts to issue no-fund warrants, without BOTA involvement, to finance any insufficiency in the operation and maintenance budget of the hospital. There is no definition for 'operation and maintenance' in either of these statutes so applying a commonsense definition in general municipal law, it seems to cover any expense other debt service. Each statute requires one publication of the board's intent to issue no-fund warrant with a 60-day protest period following publication. Successful protest requires petition in opposition signed by no less than 5% of qualified electors. If issued the no-fund warrant has to be retired within four years or less.