

FILE

Subject

*Cities - Ordinances  
Enactment & Enforcement*



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STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER  
Attorney General

June 19, 1974

Opinion No. 74- 201

R. G. Henley, Director  
Municipal Audit Program  
Office of State Auditor  
State Capitol  
Topeka, Kansas 66612

Dear Mr. Henley:

You inquire whether a city may by charter ordinance exempt itself from the operation of K.S.A. 10-1116, as amended by 1974 House Bill 1703.

As amended, K.S.A. 10-1116 sets forth certain exemptions from the cash-basis law, K.S.A. 10-1101 et seq. It enumerates certain contracts and indebtedness to which the cash-basis law shall not apply. By amendment, the provision will provide that, in addition to those heretofore listed therein, the cash-basis law will not apply to a special recreation facilities reserve set up by any board of park commissioners in any city having a population of more than 250,000 for certain purposes, rather than in any city of over 200,000, as it heretofore provided, and in addition, the cash-basis law will not apply to a so-called "enterprise fund" established in any municipality with a population of more than 250,000.

Insofar as here pertinent, the powers of self-government conferred by Article 12, § 5 of the Kansas Constitution are subject to four classes of legislative enactments:

"enactments of the legislature of statewide concern applicable uniformly to all cities, to other enactments of the legislature applicable uniformly to all cities, to enactments of the legislature applicable to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge or other exaction and to enactments of the legislature prescribing limits of indebtedness."

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As amended, K.S.A. 10-1116 is not applicable to all cities uniformly. It is not an act prescribing limits of indebtedness; on the contrary, it prescribes exemptions from the general restrictions concerning indebtedness provided by the cash-basis law.

Article 12, § 5(c)(2) defines a charter ordinance thus:

"A charter ordinance is an ordinance which exempts a city from the whole or any part of any enactment of the legislature as referred to in this section and which may provide substitute and additional provisions on the same subject."

K.S.A. 10-1116, as amended by 1974 House Bill 1703, does not apply uniformly to all cities, and it does not prescribe any limit of indebtedness. Accordingly, it is subject, in our view, to exemption or amendment by charter ordinance.

Yours very truly,



VERN MILLER  
Attorney General

VM:JRM:jsm