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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

November 15, 1974

Opinion No. 74- 376

Mr. William P. Timmerman
Attorney at Law
Suite 208, Woodlawn Central Bldg.
400 North Woodlawn
Wichita, Kansas 67208

RE: K.S.A. 10-1201, et seq.

Dear Mr. Timmerman:

You request from this office an opinion relative to the financing of certain items of equipment for public utilities by the issuance of revenue bonds pursuant to K.S.A. 10-1201, et seq. You advise that a municipality desires to purchase a special utility vehicle designed to perform certain operations directly related to the function of an electric utility. Specifically you ask whether K.S.A. 10-1201, et seq., permits a city to finance the acquisition of such equipment.

K.S.A. 1973 Supp. 10-1202 in pertinent part provides:

"Any municipality authorized by the laws of the state of Kansas to issue general obligation bonds, for the acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of any utility is hereby empowered to issue and sell revenue bonds in payment of the costs of such utility or improvement"

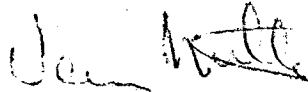
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The term "utility" is defined by K.S.A. 10-1201:

".... any publicly owned utility, instrumentality or facility, of a revenue producing character including but not limited to plans [plants], facilities and instrumentalities for the purpose of supplying natural or manufactured gas, water or electric light...."

Clearly then the scope of the statute anticipates the issue of revenue bonds for instrumentalities of utilities. The question thus evolves to determining whether a utility vehicle may properly be considered an instrumentality of an electric utility. The act does not provide a specific definition of instrumentality. Webster's New Third International Dictionary defines "instrumentality" as the "quality or state of being instrumental;" "instrumental" therein defined as "being an instrument that functions in the promotion of some end or purpose." Insofar as the utility vehicle about which you describe is designed to facilitate the operation and function of the utility we see no reason why it should not fall within the purview of the act when the above definitions are applied. Accordingly, it is the opinion of this office that a municipality may issue revenue bonds pursuant to K.S.A. 10-1201, et seq., for the purchase of a utility vehicle designed and employed to assist the utility in serving its customers.

Yours very truly,



VERN MILLER
Attorney General

VM:JPS:bw