



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

January 28, 1975

Opinion No. 75- 25

Mr. Robert W. Manske
Woodson County Attorney
P. O. Box 100
Yates Center, Kansas 66783

Dear Mr. Manske:

You advise in your letter of January 6, that prior to July 2, 1951, The Yates Center Cemetery Association, a corporation formed pursuant to the predecessor of K.S.A. 17-1301 et seq., accumulated \$9,573.06 in the permanent maintenance fund as required by the present day K.S.A. 17-1311. Further, you state that subsequent to July 2, 1951, the above corporation became the Yates Center Cemetery District (K.S.A. 17-1330) and has since that date accepted \$2,671.45 for the permanent maintenance fund despite there being no requirement that such a fund be maintained under K.S.A. 17-1330.

K.S.A. 17-1335 provides in part that

"any district cemetery association shall have all the authority now provided by law for cemetery associations and corporations which shall specifically include but shall not be limited to the authorities granted by sections 17-1302, 17-1311, 17-1312, 17-1319, 17-1320, and 17-1321 of the General Statutes of 1949."

Examination of the enumerated statutes shows that the word "authority" encompasses duties and obligations as well as specific powers. Under K.S.A. 17-1311 and its predecessor G.S. 17-1311, the income from the principal of the fund is to be used exclusively for maintenance of the cemetery. Further, it states that no part of the principal shall ever be used for any purpose except investment in the manner provided therein. Therefore, since there

Mr. Robert W. Manske
Page Two
January 27, 1975

appears no provision which would except the board of directors of the cemetery district from the responsibility of managing the monies accumulated in the permanent maintenance fund, prior to July 2, 1951, in the manner stated in K.S.A. 17-1311, the said district may not budget or expend the \$9,573.06 except in accordance with those provisions. Failure to so invest those funds is made a Class D felony by K.S.A. 17-1311a.

In regard to the \$2,671.45 collected since July 2, 1951, the same conclusion results. Admittedly, K.S.A. 17-1330 imposes no requirement upon the cemetery district to maintain such a fund. However, by virtue of K.S.A. 17-1335, the cemetery district is vested with the authority to create such a fund. The exercise of that authority imposes the same duties and obligations upon the cemetery district as it would upon a cemetery corporation although there be no requirement for the former to undertake to create such a fund. Therefore, this office is of the opinion that in neither case may the monies collected in the permanent maintenance fund be expended or budgeted in a manner contrary to K.S.A. 17-1311.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:HW:kj