



STATE OF KANSAS

*Office of the Attorney General*

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

CURT T. SCHNEIDER  
Attorney General

February 12, 1975

Opinion No. 75- 58

Mr. Michael F. McCurdy  
Crawford County Attorney  
Crawford County Courthouse  
Girard, Kansas 66743

Dear Mr. McCurdy:

You inquire whether, in the exercise of county home rule powers under K.S.A. 19-101a, the board of county commissioners may by charter resolution exempt Crawford County from a portion of K.S.A. 68-584, which limits the total amount of bonds issued thereunder without a referendum to not greater than one percent (1%) of the assessed tangible valuation of the county, and substitute therefor a new limitation of 2 per cent.

K.S.A. 68-584 provides in pertinent part thus:

"If the board of county commissioners . . . shall determine that any of the costs incurred . . . in carrying out the provisions of K.S.A. 68-581, 68-582 and 68-583, and amendments thereto, in relation to one or more county roads or highways . . . should be paid by moneys derived from the issuance of general obligation bonds of the county . . . , the board . . . may issue such bonds for such purpose or purposes: . . . Provided further, That the total amount of such bonds outstanding issued without referendum approval shall not exceed an amount equal to more than one percent (1%) of the assessed tangible valuation of such county of city. Bonds issued under the

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provisions of this act shall not be subject to or be included in computing limitations upon bonded indebtedness of counties and cities prescribed under the provisions of article 3 of chapter 10 of the Kansas Statutes Annotated and amendments thereto."  
[Emphasis supplied.]

As a result of the underscored language, K.S.A. 68-584 itself sets forth the only applicable aggregate limitation on indebtedness incurred thereunder. Under K.S.A. 19-101a, in the exercise of county home rule powers, the county is subject "to acts of the legislature prescribing limits of indebtedness." K.S.A. 10-301 prescribes limitations on the bonded indebtedness of counties, with an important exception:

"Provided, That any bonds issued by any county under a statute which specifically exempts such bonds from the statutory limitations of bonded indebtedness or authorizes the issuance of such bonds without regard to any statutory limitations of bonded indebtedness shall not be included in computing the total bonded indebtedness of such county within the meaning of this section."

Thus, as to bonds issued under K.S.A. 68-584, for example, K.S.A. 10-301 prescribes no limitation. The only limitation on indebtedness incurred thereunder is that contained therein, and from which the county proposes to exempt itself by charter resolution. In our view, the limitation upon the power of county home rule which subjects the exercise of legislative power thereunder to "acts of the legislature prescribing limits of indebtedness" prohibits adoption of the proposed charter resolution about which you inquire.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

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cc: Mr. D. J. Saia  
Board of County Commissioners  
Crawford County Courthouse  
Girard, Kansas 66743