

FILE

Subject

Cities - Funds
Transp. & Conv.

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Ch 12
Art 16

March 22, 1976

ATTORNEY GENERAL OPINION NO. 76- 103

The Honorable James L. Francisco
State Senator
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Cities--Funds--Tourism and Convention Promotion

Synopsis: K.S.A. 12-1694(e) does not restrict the expenditure of proceeds of the transient guest tax levied thereunder to the support costs of convention and related promotion, but permits the city governing body in the exercise of its legislative judgment to determine upon the expenditures, including the funding of activities designed to attract visits to the city such as festivals and similar programs and entertainments, which are determined or anticipated to serve to enhance tourism and the attractiveness of the city toward that end.

* * *

Dear Senator Francisco:

You inquire concerning the proper use of monies collected by the City of Wichita pursuant to K.S.A. 12-1692 *et seq.* K.S.A. 12-1693 commences thus:

"(a) In order to provide revenues to promote tourism and conventions, the governing body of any county having a population of more than three hundred thousand (300,000) or the governing body of any city, all or any portion of which is located within such county, is hereby authorized to levy a transient guest tax at not to exceed the rate of two percent (2%) upon

The Honorable James L. Francisco

Page Two

March 22, 1976

the gross receipts derived from or paid by
transient guests"

K.S.A. 12-1694(e) states thus:

"All such moneys received by the county treasurer or city treasurer from disbursements from the county and city transient guest tax fund shall be credited to the 'tourism and convention promotion fund' of said county or city and shall only be expended for convention and tourism promotion."

You indicate there is some disagreement regarding proper expenditures of the proceeds of this tax. On the one hand, you indicate, it was the intention of members of the Sedgwick County legislative delegation that the proceeds of the tax be used to finance promotional activities, such as promotional staff and materials, including film and slide presentations, brochures and the like, designed to encourage the selection of Wichita as a convention site by the various national and state organizations. Others, however, have advocated expenditures to fund the direct costs, or a portion thereof, of various entertainments and activities which it is believed will attract visitors to the city and thereby enhance tourism.

The statute does not squarely and precisely codify the intentions of the legislative delegation. It leaves to the legislative determination of the local governing body the determination to make particular expenditures, so long as they fall within the broad guidelines of convention and tourist promotion. I cannot conclude as a matter of law, for example, that the expenditure of moneys from this tax to fund a folk festival, to cite but one illustrative proposal, which is anticipated to draw visitors to the city, is not an expenditure for tourist promotion. The annual Easter activities in Lindsborg, for example, have substantially contributed to the national prominence of that community, and have doubtless enhanced its attraction to tourists and travelers. Thus, for example, if the Wichita city commission determined to expend a portion of the proceeds from this tax on the costs of a folk festival, for example, it would be difficult to conclude purely as a matter of law that such an expenditure was unrelated to tourism promotion.

In short, K.S.A. 12-1694(e) leaves much to the discretion of the governing body in determining upon particular programs and activities to be supported by the proceeds of the tax. Obviously,

The Honorable James L. Francisco
Page Three
March 22, 1976

there may well be differences of opinion among various groups as to the kinds of particular expenditures which are most productive and effective in encouraging either conventions or tourism. However, the resolution of those policy differences is left to the legislative determination of the city governing body, so long as the funds in question are expended within the broad parameters of convention and tourism promotion.

Yours very truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj