



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

May 6, 1976

ATTORNEY GENERAL OPINION NO. 76-148

Mr. Larry R. Mears  
Atchison County Attorney  
Post Office Box 349  
Atchison, Kansas 66002

Re: Elections--Filing Fees--Refund

Synopsis: There is no legal basis for refund of a filing fee to a person who paid such fee and filed a declaration of intent to become a candidate for a public office which is subsequently abolished as an elective position.

\* \* \*

Dear Sir:

You advise that during the 1976 legislative session, legislation was enacted which abolished two heretofore elective offices in Atchison County, those of Marshal of the City Court and Clerk of the District Court. You advise that prior to enactment of this legislation and abolition of the offices as elective positions, candidates filed for the positions and paid the filing fees prescribed by law therefor. You request my opinion whether the filing fees so paid may be refunded.

It has long been the position of this office that a filing fee may not be refunded unless there is statutory authority therefor. Our research discloses no express or implied authority for refund of filing fees under any circumstances. Indeed, K.S.A. 25-306 prescribes an express prohibition against refunds in certain instances:

"No filing fee shall be refunded to any person withdrawing his candidacy or nomination under authority of this act."

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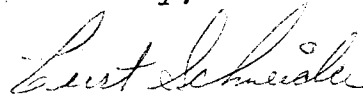
Filing fees are prescribed by K.S.A. 25-206, which provides in pertinent part thus:

"When a candidate in lieu of nomination papers shall file a declaration of intent to become a candidate for any national, state, county or township office the accompanying fee shall be in amount as follows: . . . . The funds so received, shall be, by the officer receiving them, turned over to the state treasurer, if deposited with the secretary of state, to the county treasurer, if deposited with the county election officer, and said sum shall become a part of the general fund of the respective governments."

The filing fee is paid for the privilege of filing a declaration of intent to become a candidate. Each of the persons involved has exercised that privilege, and paid the fee prescribed by law therefor. The fee is assessed not for ballot position, but for the privilege of filing a declaration of intent to be a candidate. Just as a refund is expressly prohibited to any person withdrawing his or her candidacy or nomination papers, similarly there is no authority for refunding a filing fee when the state withdraws, as it were, the office from elective status after filings therefor have been made and fees paid for that privilege.

In my opinion, thus, there is no legal basis whatever for refunding the filing fees in question.

Sincerely,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj