



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider.
Attorney General

August 17, 1976

ATTORNEY GENERAL OPINION NO. 76- 255

Mr. Joel Kriss
Thomas County Attorney
Post Office Drawer F
Colby, Kansas 67701

Re: County Hospitals--General Obligation Bonds--Payment
of Principal and Interest

Synopsis: Board of county commissioners may utilize supplementary contributions in addition to funds raised by tax levy to pay principal and interest requirements of bonds issued pursuant to K.S.A. 19-1878.

* * *

Dear Mr. Kriss:

You request an opinion from this office relative to a proposed method of paying principal and interest on county general obligation bonds issued pursuant to K.S.A. 19-1878. You advise that the county hospital board of trustees anticipates the issuance of bonds to pay for the construction of a hospital facility in Thomas County. Specifically you ask whether it is legally permissible for the county board of commissioners to utilize funds made available to the bond principal and interest account from the net profit earned by the hospital. Such a procedure would be employed supplementary to the tax levy and not as an exclusive alternative.

K.S.A. 19-1878 provides independent authorization for the issuance of general obligation bonds by the county for the acquisition of a building site and the construction of either an addition to an

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existing county hospital or the building and equipping of a new facility altogether. And, like all general obligation bonds, the municipality is required to provide for the necessary levy to satisfy the annual principal and interest requirements¹:

". . . The board of county commissioners are hereby authorized and *directed* to levy a general tax upon the property of such county for the purpose of retiring any bonds issued hereunder, as provided by law." [Emphasis added.] K.S.A. 19-1878

But neither this statute, nor for that matter, the rest of Article 18, Chapter 19 of the Kansas Statutes Annotated addresses itself to the use of funds derived from sources other than tax levies in the bond principal and interest account. Absent such direction we refer you to our Opinion No. 76-44² wherein we concluded:

"A county may by charter resolution exempt itself from K.S.A. 19-1878, and provide substitute and additional provisions in lieu thereof, and obligations issued pursuant to such charter resolution will be approved by this office as issued under lawful authority."

Thus, the power granted via K.S.A. 19-101a, *et seq.* is equally apposite to such supplementary financing means as are here suggested. It should however be noted that while the home rule powers may be employed to alter the provisions of K.S.A. 19-1878, it can not be used to circumvent the requirements of the general bond law; specifically in this case K.S.A. 10-113.

Accordingly it is the opinion of this office that should the county board of commissioners issue bonds under K.S.A. 19-1878 it has broad

1. See also, K.S.A. 10-113.

2. Attorney General Opinion 76-44, dated February 6, 1976, and addressed to Senator Norman E. Gaar.

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discretion to supplement the monies in the bond principal and interest account derived from tax levies, providing such levies are provided for as required by law.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj