



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

September 14, 1977

ATTORNEY GENERAL OPINION NO. 77- 297

Mr. W. Edward Nichols
Dean and Nichols
Suite 181, Townsite Plaza II
200 East Sixth Street
Topeka, Kansas 66603

Re: Cities and Municipalities--Municipal Revenue Bonds--
Home Rule Authority

Synopsis: Cities may pursuant to Article 12, § 5 of the Kansas Constitution, provide by ordinance for the acquisition, purchase or construction, furnishing and equipping buildings together with the necessary appurtenances for the same and acquisition of sites therefore, to be used solely by the United States government, its agencies or instrumentalities, entering into lease-purchase agreements with said government entities for the utilization of said facilities, and issuance of revenue bonds of the municipality to pay the cost of said facilities, to be payable solely from the operation, management or use of said facilities and appurtenances thereto.

* * *

Dear Mr. Nichols:

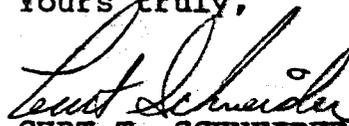
You advise that a Kansas municipality is contemplating the acquisition of real property and the construction thereon of a facility which would be leased or sold to an agency of the federal government to be paid for initially by the issuance of revenue bonds payable solely from the rents and revenue derived from the operation or use of the facility. You ask our opinion whether a city may exercise its home rule authority pursuant to Article 12, Section 5 of the Kansas Constitution to acquire, purchase or construct,

Mr. W. Edward Nichols
Page Two
September 14, 1977

furnish and equip buildings together with the necessary appurtenances for the same and to acquire sites therefor, to be used solely by the United States government, its agencies or instrumentalities, to enter into lease-purchase agreements with said government entities for the use of said facilities, and to issue revenue bonds of the municipality to pay the cost of said facilities, payable solely from the operation, management or use of said facilities and appurtenances thereto.

Without detailed elaboration suffice it to say that under Article 12, Section 5 of the Kansas Constitution a Kansas city need not have express statutory authority to issue revenue bonds to finance municipal undertakings, for that provision vests in the governing bodies of Kansas municipalities the power to conduct local affairs, including the financing of municipal government and its activities. Such power may be exercised by ordinance in the matter here described provided the legislature has not already preempted this particular area of municipal financing. We find no such preemption albeit the Industrial Revenue Bond Act, K.S.A. 12-1740 *et seq.* would apply here were the questioned "project" not designed for a purpose outside that expressly provided for in K.S.A. 12-1741, *i.e.*, a governmental activity. Accordingly, in my judgment a municipality may properly exercise its home rule authority to undertake a project for the purpose and in a manner as above outlined. A caveat should however be observed by a city exercising home rule authority in this capacity: the city must follow such provisions of the general bond law as would perforce govern other revenue bonds issued by the municipality.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj