



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 2, 1977

ATTORNEY GENERAL OPINION NO. 77- 374

Mr. Neil Hotchkiss
City Attorney
815 Main
LaCrosse, Kansas 67548

Re: Cities--Buildings--Elections

Synopsis: Under K.S.A. 12-1737, no election is required for the issuance of bonds for the acquisition of a building to be used as a shop for the repair of equipment and vehicles, and also as a garage for housing fire trucks and other fire-fighting apparatus. If the building is used, in addition, to provide space for city offices, an election would be required under subparagraph (h) thereof to authorize the issuance of bonds for such acquisition.

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Dear Mr. Hotchkiss:

K.S.A. 12-1736 *et seq.* provides authority for the acquisition or construction of public buildings by cities. K.S.A. 12-1737 provides that a city may use any of several alternative means of financing such undertakings, including the issuance of bonds. Subparagraph (h) requires, however, in pertinent part thus:

"An election upon the issuance of bonds under the authority of this act shall be required for the purpose of acquiring or constructing city offices, public libraries, auditoriums, community or recreational buildings."

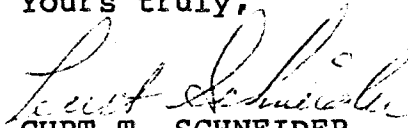
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You ask whether a city may purchase a building for the purpose of using it as a shop for the repair of equipment and vehicles, and also as a garage for housing fire trucks and other fire-fighting apparatus, and finance the project through the issuance of bonds without an election thereon. I enclose a copy of Opinion No. 77-141, concluding that an election was not required under this section for the construction of a vehicle maintenance facility for the care of city-owned vehicles. The facility described above, in my judgment, likewise does not fall within the class of buildings for which an election must be held prior to the issuance of bonds therefor, and accordingly, no election is required for the issuance of bonds for the described facility.

You inquire, secondly, whether the additional use of the building for city offices would require an election for the issuance of municipal bonds for the project. The statute does not provide any readily practicable direction for those instances where a building for which bonds are proposed to be issued is to be used for multiple purposes, one of which falls within the categories enumerated in subparagraph (h) and for which an election is required, and other uses do not. In the ordinary case, it is doubtless impracticable, if not impossible, to segregate the dollar costs of the entire building which are attributable to the space to be used only for city offices, and hold an election on bonds in that amount. At the same time, subparagraph (h) should not be construed to permit circumvention of the election requirement for bonds for a particular structure merely by designating the structure for multiple uses, for some of which the bonds do not require an election under subparagraph (h).

I see no justifiable escape from the conclusion that if any one of the multiple uses of the structure which is proposed to be acquired would require that an election be held for bonds to be used for that purpose, that issuance of bonds for the entire structure must be approved by the electorate.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj