

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 17, 1978

ATTORNEY GENERAL OPINION NO. 78- 22

Mr. John Shirley
City Attorney
325 Main Street
Scott City, Kansas 67871

Re: Cities--Buildings--Funds

Synopsis: Buildings to be constructed for use as a dog pound and for the maintenance and storage of city-owned street equipment are public buildings within the scope of K.S.A. 12-1736 et seq., and no-fund warrants may be issued for the costs of land acquisition and construction under K.S.A. 12-1737 without an election therefor and without any limitation on the dollar amount thereof, so long as said no-fund warrants are paid by a levy made for that purpose at the first tax levying period after such warrants are issued.

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Dear Mr. Shirley:

You advise that the City of Scott City, Kansas, a city of the second class, is investigating the possibility of constructing two city-owned buildings. One would be constructed for use as a dog pound for the detention of dogs found running at large within the city in violation of a city ordinance. The other would be constructed and used for the maintenance and storage of city-owned street equipment, and would be large enough to provide both storage and a maintenance area.

You inquire whether these two buildings fall within the scope of the term "public building or buildings," and if so, whether the city is authorized to pay the entire cost of land acquisition and construction through the issuance of no-fund warrants. The

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act, K.S.A. 12-1736 et seq., provides a procedure whereby cities are authorized to construct public buildings, and may finance the costs thereof. The term "public building" is not defined in the act. However, the term includes, in our judgment, any building to be constructed by the city, to be owned by the city and used for municipal public purposes. The two structures which you describe would, in our judgment, constitute public buildings within the scope of this act.

Secondly, you ask whether the two projects may be financed through the issuance of no-fund warrants without an election therefor, and with no limitation on the dollar amount thereof, so long as the warrants so issued shall be paid by a levy imposed by the city for that purpose at the first tax levying period after issuance of the warrants. K.S.A. 12-1737 authorizes the city to utilize alternative means of financing, including the issuance of no-fund warrants. No election is required for the issuance of no-fund warrants under this section, and no maximum dollar limit is imposed. It provides only in pertinent part thus:

"No-fund warrants issued under the authority of this act shall be issued in the manner and form and bear interest and be redeemed as prescribed by K.S.A. 1977 Supp. 79-2940, and acts amendatory thereof, except that they may be issued without the approval of the state board of tax appeals, and without the notation required by K.S.A. 1975 Supp. 79-2940. The governing body of the city issuing such warrants shall make a tax levy at the first tax levying period after such warrants are issued, sufficient to pay such warrants and the interest thereon."

Thus, you are correct, that no-fund warrants may be issued for the construction of these two buildings without an election and without any dollar limitation thereon, subject, of course, to the requirement that the warrants be paid by a tax levy made for that purpose at the first tax levying period after the warrants are issued.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj