

STATE OF KANSAS

*Office of the Attorney General*

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*Curt T. Schneider*  
Attorney General

June 30, 1978

ATTORNEY GENERAL OPINION NO. 78- 216

Mr. Donald D. Gregory  
Osborne City Attorney  
Post Office Box 345  
Osborne, Kansas 67473

Re: Bonds and Warrants--Cash Basis Law--No-Fund Warrant  
Procedure Under K.S.A. 10-1116a.

Synopsis: No-fund warrants issued pursuant to the authority granted under K.S.A. 10-1116a do not require review and approval by the Kansas Board of Tax Appeals.

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Dear Mr. Gregory:

You request the opinion of this office whether a city desiring to issue no-fund warrants pursuant to K.S.A. 10-1116a must secure the review and approval from the Kansas Board of Tax Appeals as is required under K.S.A. 79-2939.

K.S.A. 10-1116a provides in pertinent part thus:

"The provisions of this act, shall not apply to expenditures in excess of current revenues, made for municipally owned and operated utilities out of the fund of such utilities caused by, or resulting from the meeting of, extraordinary emergencies. In such cases expenditures in excess of current revenues may be made by declaring an extraordinary emergency by resolution adopted by the governing body and such resolution shall

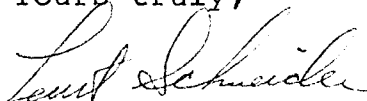
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be published at least once in a newspaper of general circulation in such city. Thereupon, said governing body may issue interest bearing no-fund warrants on such utility fund in an amount, including outstanding previously issued no-fund warrants, not to exceed twenty-five percent (25%) of the revenues from sales of service of such utility for the preceding year."

The above language clearly manifests an intent by the legislature to permit a municipality to issue no-fund warrants for expenditures made for its municipally owned and operated utilities in excess of current revenues upon meeting two conditions precedent: (1) declaring by a resolution of the governing body the existence of an extraordinary emergency, (2) publishing said resolution at least once in a newspaper of general circulation in such city. It is an independent authority to issue no-fund warrants for expenditures in excess of current revenues for municipal utilities.

K.S.A. 79-2939 (enacted by the legislature in the same year as K.S.A. 10-1116a, i.e., 1941) on the other hand also offers the city an independent and complete alternative for issuing no-fund warrants for "unforeseen occurrence[s]" which provides an elaborate procedure for the Kansas Board of Tax Appeals to review and approve a municipality's application for authority to issue no-fund warrants thereunder. Inasmuch as both acts were passed in the same legislature it appears reasonable to conclude the legislature fully intended to provide cities a choice in selecting the method desired to issue no-fund warrants for certain expenditures for municipally owned and operated utilities.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JPS:kj