



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 7, 1978

ATTORNEY GENERAL OPINION NO. 78- 221

Mr. Charles Menghini
City Attorney
316 National Bank Building
Pittsburg, Kansas 66762

Re: Cities--Industrial Fund--Uses

Synopsis: A city may make expenditures from its industrial fund, created pursuant to K.S.A. 12-1617i, for the purpose of inducing a company which is already located there to locate an expansion or addition to its facilities in that city rather than elsewhere.

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Dear Mr. Menghini:

I have your letter of June 14, 1978, concerning our telephone conversation regarding the use of moneys in the industrial fund created by the City of Pittsburg pursuant to K.S.A. 12-1617i. You indicated that an industry now located in the city is proposing to expand its activities, and to construct a new building on land owned by it for the manufacture of additional products. The corporation has requested the city to expend moneys from the industrial fund to haul in dirt to fill in two low spots, to install a storm sewer, and to pave two adjacent streets at a cost of approximately \$10,000. The propriety of the expenditure has been questioned because the industry in whose behalf the expenditure is proposed is already located in the city.

K.S.A. 12-1617i directs that moneys in the fund shall be used "for the purpose of inducing industries to locate within the said city and near its environs" In Opinion No. 73-80, Attorney General Vern Miller concluded that the City of Abilene could not

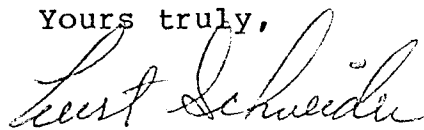
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contribute moneys from its industrial fund to assist the Greyhound Hall of Fame, Inc., a nonprofit corporation, in the completion of the Greyhound Hall of Fame. In that instance, the structure to house the facility was already located in the city, and was largely completed, save for interior work which was proposed to be financed by the industrial fund. We concluded that for all practical purposes, the Hall of Fame, as an industry, was already located in the city, and the use of moneys in the industrial fund merely to complete some interior finishing of the building was not an expenditure to induce an industry to locate there in the first instance.

I understand that the company which is considering an expansion in the City of Pittsburg already has a manufacturing facility there, and that the additional facility is one which the company could locate there or elsewhere. The city has a legitimate interest in inducing industries already there to expand their local operations, as well as in attracting new industry to locate there at the outset. Whether an expenditure from the industrial fund operates to encourage a company to establish a facility in the city for the first time, or to encourage a company which is already established there to locate an additional facility there instead of elsewhere, the expenditure results equally in "inducing industries to locate" in the city. In Opinion No. 73-80, discussed above, the industry involved was one which had already located in the city, and the proposed expenditure did not involve an expansion thereof, but merely a completion of interior work, and could not even arguably be deemed to encourage the location of a facility there which might be located elsewhere.

Since your earlier conversation with John Martin of my staff, we have reviewed this question at some length, and concluded that the present question is distinguishable from that posed in the 1973 opinion, and that the proposed expenditure is permissible.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj