



STATE OF KANSAS

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April 10, 1981

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ATTORNEY GENERAL OPINION NO. 81- 89

Steven E. Worcester  
Graham County Attorney  
413 North Pomeroy Ave.  
Hill City, Kansas 67642

Re: Automobiles -- Registration of Vehicles -- Exemption for Municipally-owned Fire Trucks; County Qualifies as Municipality

Synopsis: Under the provisions of K.S.A. 1980 Supp. 8-128(a), "municipally owned fire trucks" are exempt from motor vehicle registration requirements. In light of the meaning commonly given to the term "municipality" by Kansas statutes, this exemption includes fire trucks owned by a county, as well as those owned by a city. Cited herein: K.S.A. 1980 Supp. 8-128(a), K.S.A. 10-1101(a), K.S.A. 1980 Supp. 12-105a(a), 12-110a, K.S.A. 12-726(a), 12-1218(a), 12-1679(a)(1), 12-3102(b), K.S.A. 1980 Supp. 31-132(c), K.S.A. 68-2101(a).

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Dear Mr. Worcester:

As County Attorney for Graham County, you request the opinion of this office on a matter involving the fire trucks which the county currently owns and operates. Specifically, you wish to know whether these vehicles must be registered pursuant to K.S.A. 1980 Supp. 8-126 et seq., or whether they are exempt under the provisions of K.S.A. 1980 Supp. 8-128(a). The latter statute states in pertinent part:

"Farm tractors, all self-propelled farm implements including fertilizers and spreaders designed and used exclusively for dispensing liquid or dust fertilizer, road rollers and road machinery temporarily operated or moved

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upon the highways, municipally owned fire trucks, and school buses owned and operated by a school district or nonpublic school which have the name of the municipality, school district or nonpublic school plainly painted thereon need not be registered under this act."  
(Emphasis added.)

Your inquiry, then, is one of whether a county can be considered a "municipality" for the purposes of owning such equipment.

In the task of construing a statute, the basic rule of construction, to which all other rules are subordinate, is that the purpose and intent of the legislature governs when that intent can be determined from the wording of the statute. City of Salina v. Jagers, 228 Kan. 155 (1980). Where the language used is plain and unambiguous and also appropriate to an obvious purpose, the meaning given to the statute must give effect to such language. Underwood v. Allmon, 215 Kan. 201 (1974). In addition, it is to be presumed that the legislature both understood the meaning of the words it used and intended to use them and that it used the words in their ordinary and common meaning. Rogers v. Shanahan, 221 Kan. 221 (1976). Finally, in the absence of anything in the context of the statute to indicate otherwise, the same word used in different statutes relating to the same subject is interpreted as having the same meaning. Callaway v. City of Overland Park, 211 Kan. 646 (1973).

Unlike a number of other Kansas acts, the term "municipality" is not defined anywhere in K.S.A. 1980 Supp. 8-126 et seq. However, as there also appears nothing to indicate that any special meaning is to be attached to the term, it is reasonable to look to the other Kansas statutes in which the term is specifically defined. Our review of these statutes, while no means exhaustive, has disclosed no less than eight different statutes in which "municipality" has been defined to include counties, as well as cities and various other local governmental units. These include: K.S.A. 10-1101(a) (Cash Basis Law); K.S.A. 1980 Supp. 12-105a(a) (payment of claims against governmental units); K.S.A. 12-726(c) (planned unit developments); K.S.A. 12-1218(a) (libraries); K.S.A. 12-1679(a) (1) (licensing of private security police); K.S.A. 12-3102(b) (control of water pollution); K.S.A. 1980 Supp. 31-132(c) (fire safety and prevention); and K.S.A. 68-2101(d) (repair of highways and roads). The sole exception to the above was found at K.S.A. 12-2701(a), which defines the term to include only certain cities, townships or improvement districts located within certain counties, a fact which leaves the definition of little bearing on this inquiry.

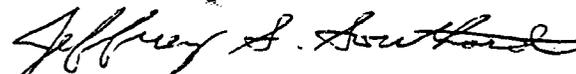
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In reading K.S.A. 1980 Supp. 8-128(a), we can see no reason why "municipality" should be interpreted differently than in the great majority of statutes cited above where an express definition is set out. Additionally, we see no indication that it was the intent of the legislature to treat fire trucks owned by a city differently than those owned by a county, since both entities clearly possess the power to purchase, repair or replace such equipment. See, e.g. K.S.A. 1980 Supp. 12-110a. Nor, in our opinion, does there appear to be any public policy which can be served by making such a distinction. Accordingly, it would be our opinion that the exemption provided by K.S.A. 1980 Supp. 8-128(a) extends to fire trucks owned by a county as well as those owned by a city.

Very truly yours,



ROBERT T. STEPHAN  
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RTS:BJS:JSS:hle