

FILE

Subject

*County's Funds
Dawson & Assoc*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

January 28, 1974

Opinion No. 74- 33

Jack N. Turner
Sedgwick County Counselor
Room 320
Sedgwick County Courthouse
Wichita, Kansas 67203

Dear Mr. Turner:

You advise that the County of Sedgwick contemplates entering into a contract with the Southwestern Bell Telephone Company for a Centrex telephone system to serve both the county and the City of Wichita. You have furnished us with a copy of an exhaustive and careful discussion of applicable Kansas law, prepared by counsel for Southwestern Bell, and a copy of the proposed contract.

Especial concern has been raised that the proposed contract obligations may violate the Kansas cash-basis and budget law. Under the proposed agreement, known as a termination agreement, the county has no obligation upon installation of the system other than to pay the normal monthly service and other charges of the company for the telephone service provided by the system. If, however, the county terminates the agreement within 36 months following the date of completion of installation, the county, as "customer,"

"agrees to pay to Telephone Company an amount equal to \$84,700 reduced by 1/36 for each full month service is retained following date of completion of installation, with proportionate reductions for fractional portions of a month."

K.S.A. 10-1113 states in pertinent part thus:

"Unless otherwise provided in this act, it shall be unlawful . . . for any member of any governing body of any municipality to knowingly vote for in any

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manner aid or promote the passage or adoption of any order . . . creating an indebtedness in excess of the amount of funds actually on hand in the treasury of such municipality at the time for such purpose"

Presumably, the normal monthly charges for Centrex service are within the present or anticipated financial resources of the county. By execution of the contract, the county incurs no present obligation for the amount of \$84,700. Only when the county terminates the contract within 36 months from the date of completion of installation does the county incur an obligation for an amount equal to \$84,700, or the appropriate portion thereof reduced for months for which service has been utilized. In our view, the county would incur an indebtedness for this lump sum amount not upon execution of the contract, but upon termination of the contract within the specified three-year period.

Thus, in our view, the contract does not violate either the cash-basis law, nor the budget law, K.S.A. 79-2924 et seq.

Certainly, the duration of the contract does not appear unreasonable, and we likewise find no objection on that score. In sum, the contract is fully within the authority of the County, in our opinion.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm

cc: Phil McConnell
Attorney
Southwestern Bell
220 East Sixth Street
Topeka, Kansas 66603