

FILE

Subject Fees & Salaries
General

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STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

July 15, 1974

Opinion No. 74-236

J. Byron Meeks
Edwards County Attorney
Kinsley, Kansas 67547

Dear Mr. Meeks:

We have your inquiry concerning Senate Bill 750, found at ch. 257, L. 1974, which became effective July 1, 1974. More specifically, you ask if the fees provided for may be billed annually on the personal property tax statement.

Senate Bill 750 provides in part:

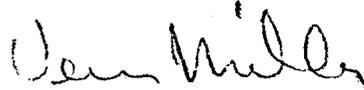
"The board shall set a reasonable fee for each category established and divide the real property within the county service areas according to categories and ownership. The board shall impose the appropriate fee upon each division of land and provide for the billing and collection of such fees. The fees may be established, billed, and collected on a monthly, quarterly or yearly basis. Fees collected on a yearly basis may be billed on the ad valorem tax statement. . . ."

The nature of the charge authorized by the act is somewhat ambiguous. It is, on the one hand, a fee or charge for service provided by the county; on the other, the act speaks of it being "imposed on real property." It cannot, strictly speaking, be characterized as a tax, for as the charge is authorized under the act, it is imposed only within the county solid waste service area, which may not be necessarily coextensive with the county itself, and hence, it may not be assessed uniformly throughout the territorial jurisdiction of the county. Moreover, it is based upon factors unrelated to the "uniform and equal" requirements of Article 9, § 1, of the Kansas Constitution.

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Nonetheless, the charge is to be assessed only against land-owners. Annual billings rendered on the personal property ad valorem tax statements may not reach every landowner liable for the charge, and may assess persons not authorized under the enactment to be billed for such charges. For this reason, it is our view that the personal property ad valorem tax statement should not be used as the collection vehicle for this charge.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm