



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

May 16, 1975

Opinion No. 75- 227

Mr. David M. Mills
Attorney for Cowley County
Community Junior College
Home National Bank Building
Post Office Box 896
Arkansas City, Kansas 67005

Dear Mr. Mills:

As counsel for Cowley County Community Junior College, you inquire concerning the authority of a public building commission, organized pursuant to K.S.A. 1974 Supp. 12-1757 et seq., to issue revenue bonds to finance the construction of a physical fitness and recreation building which the college would then lease pursuant to K.S.A. 1974 Supp. 12-1763. The question has been raised whether such facility falls within the authority provided by K.S.A. 1974 Supp. 12-1758:

"Any such city may, by ordinance, create a public building commission for the purposes of acquiring a site or sites for and constructing, reconstructing, equipping and furnishing a building or buildings or other facilities of a revenue producing character, including parking facilities, or for purchasing or otherwise acquiring such building or buildings or facilities and such building or buildings or facilities shall be maintained and operated for a county courthouse, and the housing and accommodation of county offices or county business or for city offices or such other purposes as are commonly carried on in connection with such facilities or in county courthouses and general city buildings, including administrative offices for school districts and housing, accommodations and parking facilities for offices of state and federal agencies." [Emphasis supplied.]

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In addition to the above, the commission is also authorized to

"acquire land and facilities adjacent to or near any state university, construct, reconstruct, equip and furnish such facilities on such land and lease said land and facilities to any board of trustees of said university or to the official governing body of said university"

To recapitulate, the commission is authorized to construct, purchase, reconstruct or otherwise acquire "buildings or other facilities of a revenue-producing character, including parking facilities" which shall be maintained and operated for (1) a county courthouse; or (2) housing of county offices or county business; or (3) city offices; or (4) facilities for "such other purposes as are commonly carried on in connection with such facilities or in county courthouses or general city buildings," which may include school district administrative offices, and accommodations for state and federal agencies; or (5) lease to state universities. A physical fitness and recreation building for use by a community junior college does not readily fall within this authority.

K.S.A. 1974 Supp. 12-1758 is a statement of the purposes for which a public building commission may be organized thereunder. K.S.A. 1974 Supp. 12-1760 is a statement of its powers:

"A public building commission authorized under this act shall have the power to do all things necessary or incidental to the purpose of constructing or acquiring or enlarging, furnishing and equipping and operating and maintaining buildings to be made available for use by governmental agencies." [Emphasis supplied.]

K.S.A. 1974 Supp. 12-1758 specifies that the commission may construct, operate and maintain buildings for county and city government, and for other purposes commonly incidental to and found allied with general county and city buildings, of which

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school district administrative offices, and state and federal offices are cited as illustrative. Community junior college districts are, obviously, missing from this enumeration. In our view, the general grant of powers set out above, in K.S.A. 1974 Supp. 12-1760, should be construed as coextensive with the rather detailed statement of purposes enumerated at K.S.A. 1974 Supp. 12-1758, and that the general and nonspecific reference to "governmental agencies" should not be construed to authorize the construction or acquisition of a building designed for use by taxing and political subdivision other than those enumerated in K.S.A. 1974 Supp. 12-1758.

When a building is constructed, reconstructed, purchased or otherwise acquired for a purpose enumerated in K.S.A. 1974 Supp. 12-1758, the building must be "maintained and operated" for one or more of those enumerated purposes. K.S. A. 1974 Supp. 12-1763 states the authority of the Commission to rent "all or any part of its buildings" as follows:

"The . . . commission shall have the authority to rent all or any part of its buildings or other facilities to any federal, state or county governmental agency, or any municipal corporation, quasi-municipal corporation, political subdivision or body politic, or agency thereof, doing business, maintaining an office or rendering a public service in the county seat or county in which the commission was organized and to rent any space as may not be needed by such governmental agencies for such service facilities as . . . will primarily serve the comfort and convenience of the occupants"

K.S.A. 1974 Supp. 12-1758 authorizes the commission to construct buildings to house city and county governmental offices, and to provide facilities and accommodations commonly incident thereto, such as school district administrative offices, and state and federal offices. Community junior colleges are not mentioned. If, however, under K.S.A. 1974 Supp. 12-1763, the commission may, in addition, lease "all or any part" of its buildings to any other "political subdivision or body politic," as well, such as a junior college district, the question may well be asked why

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the commission may not issue revenue bonds for and construct a building to be leased to a community junior college district.

However broad the rental authority of the commission may be, and it is certainly broad, it provides no basis, in our view, to imply a broadening of the purposes of the commission under K.S.A. 12-1758. Junior colleges are not mentioned therein. You point out that in 1965, when this act was passed, the local junior college was a part of and wholly owned by U.S.D. no. 470, and suggest that the legislative intent at the time of enactment may have been to include junior colleges. However uncertain and unambiguous portions of the act may be, the references to school districts, at least, are clear, and pose no ambiguities which would justify resort to legislative intent and history. A school district is not now a community junior college district, and the failure to amend the reference to unified school districts to include the junior college districts organized since 1965 apart from school districts speaks for itself.

Similarly, the phrase "state university" cannot properly be construed to include community junior colleges. With reference to state colleges and universities, they are identified at K.S.A. 1974 Supp. 76-711. The phrase cannot be extended to include institutions other than those under the jurisdiction of the State Board of Regents.

Accordingly, we cannot but conclude that K.S.A. 1974 Supp. 12-1757 et seq. provides no authority for the issuance of revenue bonds for and the construction of a physical fitness and recreation building for lease to a community junior college district.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj