



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

January 21, 1977

ATTORNEY GENERAL OPINION NO. 77- 23

Mr. B. D. Watson
City Attorney
109 West Laurel Street
Independence, Kansas 67301

Re: Motor Vehicles--Registration Fees--Municipal Vehicles

Synopsis: Vehicles owned and used by a city for the operation of a municipal solid waste collection program are vehicles which are used for utility purposes, as distinguished from governmental purposes, and are thus not eligible for the registration fee of two dollars provided by K.S.A. 8-143 for certain vehicles.

* * *

Dear Mr. Watson:

We have your letter of January 14, 1977. You advise that the City of Independence operates its own solid waste collection system, transporting and disposing of such material through the county-operated landfill. You inquire whether the city vehicles used in this operation are eligible for the registration fee of \$2.00 provided by K.S.A. 8-143, which provides in pertinent part thus:

"The annual registration fee for each motor vehicle, trailer or semi-trailer owned by any political or taxing subdivision of this State, or by any agency or instrumentality of any one or more political taxing subdivisions of this state and used exclusively for governmental purposes and not

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for any private or utility purposes, which is not otherwise exempt from registration, shall be Two Dollars (\$2.00)." [Emphasis supplied.]

I enclose a photocopy of Opinion No. 71-8-10, which discusses a similar question relating to municipal transit buses. That opinion refers to K.S.A. 10-1201 *et seq.* which authorizes the issuance of revenue bonds for certain utility operations, including sewage disposal plants. By analogy, vehicles used for the collection of solid waste must necessarily be regarded as vehicles used for utility purposes, rather than governmental purposes, and in my judgment, such vehicles are not eligible for the lower registration fee of two dollars provided by the cited statute.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

Enclosure



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VERN MILLER
Attorney General

Opinion No. 71--8--10

March 2, 1971

ATTORNEY GENERAL'S OPINION

Re: Motor Vehicles -- Municipal Transit Vehicles
-- Registration Fees -- K.S.A. 8-143

Request By: H. R. Kuhn, Assistant City Attorney, Wichita,
Kansas

Question: Whether buses owned and operated by the Wichita
Metropolitan Transit Authority in connection
with its public transportation system are vehi-
cles "used exclusively for governmental pur-
poses and not for any private or utility pur-
poses," within the meaning of K.S.A. 8-143.

Answer: No.

The term "utility" is not defined in the statute. Insofar as the term applies to municipalities, it must be held to embrace, at the least, any activity which the legislature has authorized

municipalities to conduct as a utility. Article 8, titled "Public Utilities," of chapter 12, K.S.A., titled "Cities and Municipalities," commences with K.S.A. 12-801, which provides thus:

"Whenever and as often as a majority of the electors voting at an election heretofore held, or hereafter called and held, in any city shall vote in favor of the issuance of bonds of such city for the purpose of purchasing, constructing or extending works for the purpose of supplying such city and its inhabitants with natural or artificial gas, water, electric light, heating, street-railway, bus or telephone service, it shall be lawful for the governing body of such city, by ordinance duly passed, to direct the issuance of the bonds so voted as provided by law"

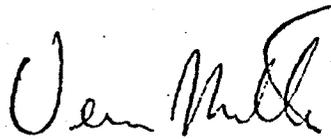
The city urges that the term "utility" should be limited to self-sustaining or self-supporting activities, and points to K.S.A. 79-4415(5), which exempts from the "spending lid" expenditures for the operation of a municipally-owned utility, as defined in K.S.A. 10-1201, if such utility does not derive any revenue from tangible property taxes"

The Wichita Area Transit Authority was created by city charter ordinance pursuant to K.S.A. 13-3105 et seq. K.S.A. 13-3113 provides for the issuance of revenue bonds therefor as provided by K.S.A. 10-1201 et seq. The latter act authorizes the issuance of revenue bonds for the payment of the cost of utilities, and improvements thereto. K.S.A. 10-1201 defines "utility," as used in that act, as follows:

"'Utility' as used in this act means any publicly owned utility, instrumentality or facility of a revenue producing character including but not limited to plans [plants], facilities and instrumentalities for the purpose of supplying natural or manufactured gas, water or electric light and off-street parking facilities and sewage disposal plants, facilities and interceptor sewers."

However, in defining the category of municipally-owned vehicles not entitled to the reduced registration and licensing fee schedules, the legislature did not define the category by its production or nonproduction of revenue. To define the category, we must look to the legislature's delineation of those services which may be rendered by a municipality and which are so described as utilities.

Accordingly, it is our opinion that vehicles of the Wichita Metropolitan Transit Authority are used for utility purposes, and not exclusively for government purposes, within the meaning of K.S.A. 8-143.



VERN MILLER
Attorney General

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