



STATE OF KANSAS

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Attorney General

February 4, 1977

ATTORNEY GENERAL OPINION NO. 77- 39

The Honorable John F. Sutter
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

The Honorable Larry E. Erne
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Counties--Funds--Motor Vehicle Licenses

Synopsis: Monies from the general fund of Kansas counties may lawfully be applied to support, either in whole or in part, as the legislature deems appropriate, the costs incurred by county treasurers for their role in the administration of state motor vehicle licensing laws.

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Gentlemen:

You inquire concerning 1977 House Bill 2075, which proposes to amend K.S.A. 8-145 so as to increase the amount which the county treasurer may retain from fees collected by that officer for motor vehicle license and certain other applications. The amounts so retained are required by that statute to be deposited in a special fund, which

"is hereby appropriated for the use of the county treasurer in paying for necessary help and expenses incidental to the administration of duties in accordance with the

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provision of this law and extra compensation to the county treasurer for the services performed in administering the provisions of this act. . . ."

There is, apparently, some dispute whether the fees which the treasurer is permitted to retain are sufficient to defray entirely the costs to the county of administering the motor vehicle license act, and you raise the question whether counties may constitutionally use, or be required to use, county general fund monies to support the activities of the county treasurer in administering the motor vehicle law.

"Counties are mere agencies of the state for governmental purposes, and the legislature possesses absolute power over them." 110 Kan. 542, 204 Pac. 763 (1922). Although counties have now been granted limited general legislative and administrative powers through K.S.A. 19-101a et seq., these powers are statutory, and counties remain instrumentalities of the state, and may be required to administer and enforce state laws when and as the legislature chooses to entrust that responsibility to them.

Concerning the use of the county general fund, in Smith v. Haney, 73 Kan. 506, 85 Pac. 550 (1906), the court stated thus:

"The phrase 'general fund,' as applied to the fiscal management of a Kansas county, has a definite and well-recognized meaning. It covers the proceeds of a tax levied to provide for the usual current expenses."

For many decades, the legislature has required Kansas counties, and county treasurers in particular, to assist in the administration of the motor vehicle licensing laws of the state. The expenses of that activity are a usual and current expense of every Kansas county, and of every Kansas county treasurer, and county general funds may constitutionally be applied to support that activity, either in whole or in part, as the legislature deems appropriate.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj