

STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

April 7, 1977

ATTORNEY GENERAL OPINION NO. 77- 114

Mr. Paul D. Oakleaf
Montgomery County Attorney
Montgomery County Courthouse
Independence, Kansas 67301

Re: Counties--Funds--Road and Bridge

Synopsis: Monies from a county road and bridge fund are devoted by law to the construction, reconstruction, improvement, repair and maintenance of roads and bridges, and acquisition of rights-of-way, and may not be applied to the construction, operation or maintenance of a county solid waste disposal area.

* * *

Dear Mr. Oakleaf:

You advise that during the calendar year 1976, the board of county commissioners authorized the expenditure of approximately \$23,600 from the county road and bridge fund for the construction of a water line to the county landfill. This expenditure included \$1,107.30 for 3691 feet of 10" inch pipe, and the balance was for salaries of persons employed on the landfill project. The project was supervised and conducted under the Road and Bridge Department, under the direction of the acting county engineer. No specific fund for the solid waste landfill project was included in the 1976 county budget.

The levy for the county road and bridge fund is to be applied to the construction, reconstruction, improvement, repair and

Mr. Paul D. Oakleaf
Page Two
April 6, 1977

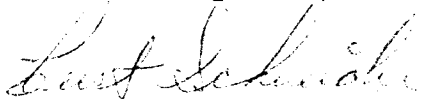
maintenance of roads and bridges, and acquisition of rights-of-way. K.S.A. 1976 Supp. 79-1947. K.S.A. 79-2934, a provision of the Kansas budget law, states in pertinent part as follows:

"The budget as approved and filed with the county clerk for each year shall constitute and shall hereafter be declared to be an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose. . . .

No part of any fund shall be diverted to any other fund . . . except as provided by law."

I find no statutory authority for use of the road and bridge fund for construction, operation or maintenance of a county solid waste disposal area. Thus, the expenditure appears to constitute an application of road and bridge monies to a purpose other than road and bridge uses, and thus, a use of monies which were budgeted for one purpose for another and different purpose. Such an application of the funds constitutes a departure from the appropriation of road and bridge funds which was included in the county budget, and thus a violation of the budget law. It is not, however, a violation of the cash-basis law. Because no fund was created to provide for the solid waste disposal site, monies for the project should have been expended from the county general fund, rather than the road and bridge fund.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj