

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 20, 1977

ATTORNEY GENERAL OPINION NO. 77- 200

Mr. Thomas C. Lysaught
County Counselor
511 Huron Building
Kansas City, Kansas 66101

Re: Counties--Elections--Funds

Synopsis: Proceeds of the levy authorized by K.S.A. 19-3435a may not be used to finance construction of a warehouse for storage of voting machines, because under K.S.A. 25-1317, the storage of such machines is the responsibility of the board of county commissioners, and proceeds of the levy may be used only to defray expenses of the office of election commissioner. However, the election commissioner is charged by law with the repair and up-keep of the machines, and may apply proceeds of the levy under K.S.A. 19-3435a to provide heating, cooling and dehumidifying equipment which may be necessary to comply with the manufacturer's warranties.

* * *

Dear Mr. Lysaught:

On behalf of the board of county commissioners of Wyandotte County, you request my opinion whether funds derived from the levy made pursuant to K.S.A. 19-3435 may be used for the construction of a warehouse for the storage of voting machines. You advise that the warehouse now used by the county for the storage of voting machines is in a poor state of repair, and that because of its age, rehabilitation of the structure is not economically feasible. It is anticipated that there will be a carry-over balance in the election commissioner's fund of approximately \$200,000, and you have questioned whether the proceeds from the levy may be applied to the construction of new storage facilities.

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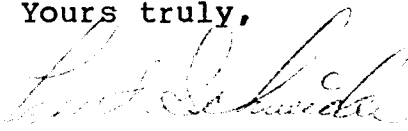
K.S.A. 19-3435 provides that in offices in which the office of election commissioner is established, that the county shall bear costs of the salaries and expenses of the office of election commissioner, the cost of printing and distributing the ballots, and all other expenses connected with county-wide elections, whether primary, general or special. K.S.A. 19-3435a provides that the board of county commissioners is authorized to make a levy each year

"as may be necessary in order to provide the necessary fund for the payment of the salaries and expenses of the office of the election commissioner and of election expenses as provided for in K.S.A. 19-3435 as amended."

K.S.A. 25-1317 provides that the "board of county commissioners shall provide for the storage of the voting machines." The election commissioner is in "complete charge" of the machines, their safekeeping when not in use, and their repair and upkeep. Because the board of county commissioners is required to "provide for the storage of the voting machines," the expenses of the storage are legally costs which are required to be borne by the board, and not by the election commissioner. Thus, the cost of construction of the warehouse is not an expense of the election commissioner's office, and not a purpose to which the levy authorized by K.S.A. 19-3435a may be applied.

Thus, I concur with your operation that proceeds of the levy may not be used for construction of the buildings. Because the election commissioner is responsible for the care and maintenance of the machines, and their repair and upkeep, I agree with you that proceeds of the levy may be applied to furnish the heating, cooling and dehumidifying facilities which may be necessary to comply with the manufacturer's warranties covering the equipment.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj