



Withdrawn

See Op. 78-363

STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

March 8, 1978

ATTORNEY GENERAL OPINION NO. 78- 111

Mrs. Shelley D. G. Bloomer
Osborne County Attorney
202 West Main Street
Osborne, Kansas 67473

Re: Counties--Petty Cash Funds--Authority

Synopsis: A county may not establish petty cash funds for the use of county departments except when and as authorized by specific statutory authority. Statutory county home rule powers may not be used for that purpose, because the use of such funds constitutes a departure from the uniform procedure for the payment of claims and other indebtedness by municipalities, which applies mandatorily and uniformly to all counties.

* * *

Dear Mrs. Bloomer:

You advise that officers of the Osborne County sheriff's office have on occasion had to use their own funds on emergency trips to other states to pick up prisoners, when there was not sufficient time to obtain county funds through the voucher and warrant system. The question has been raised whether the board of county commissioners might establish a petty cash fund to be used in such circumstances.

As you point out, K.S.A. 19-264 et seq. authorizes the board of county commissioners of any county having a population in excess of 150,000 to establish a petty cash fund in any county office not in excess of \$200, and prescribes certain conditions concerning the administration thereof. The question is raised whether, in the absence of specific statutory authority applicable to Osborne County, the board of county commissioners of Osborne County may nonetheless authorize establishment of a petty cash fund.

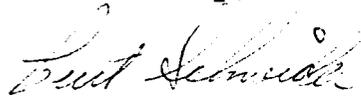
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K.S.A. 1977 Supp. 19-101a(a) commences thus:

"Counties are hereby empowered to trans-act all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions: *First*, counties shall be subject to all acts of the legislature which apply uniformly to all counties"

The establishment of a petty cash fund would appear, on its face, to be merely a matter of local administration which the board of county commissioners could prescribe in the exercise of its statutory home rule powers. However, K.S.A. 12-105 and K.S.A. 10-801 *et seq.* prescribe a uniform procedure for the payment of claims and other indebtedness by municipalities. The act applies mandatorily and uniformly to all counties. The act does not provide for the payment of claims from a petty cash fund. Use of a petty cash fund for the payment of claims against the county is a departure from the provisions of the mandatory uniform procedure, and in my judgment, may be authorized only by an act of the legislature, and not by legislative or administrative action of the board of county commissioners in the exercise of its statutory home rule powers. Thus, in my judgment, without statutory authority therefor, the board may not authorize the establishment of a petty cash fund as described above.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj