



STATE OF KANSAS

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September 14, 1978

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ATTORNEY GENERAL OPINION NO. 78- 292

Ms. Sara N. Langland
Staff Attorney
Kansas Department of Transportation
State Office Building
Topeka, Kansas 66612

Re: State Highways--City Connecting Links--Eligibility

Synopsis: City connecting links which do not form with the definition of that term as enacted by the 1978 legislature, see ch. 271, § 3(b), L. 1978, are ineligible, from and after April 21, 1978, the effective date of the amendment, to be considered in computing the mileage upon which payments to cities for maintenance thereof may be based under K.S.A. 1977 Supp. 68-416, as amended by ch. 271, § 4, L. 1978.

* * *

Dear Ms. Langland:

We have your letter of September 7, 1978, concerning ch. 271, § 3(b), L. 1978, which states thus:

"In addition to the designation of highways as herein provided, the secretary of transportation shall designate in those cities on the state highway system certain streets as city connecting links. As used in this act, the term 'city connecting link' means a routing inside the city limits of a city which: (1) Connects a state highway through a city; (2) connects a state highway to a

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city connecting link of another state highway; (3) is a state highway which terminates within such city; or (4) connects a state highway with a road or highway under the jurisdiction of the Kansas turnpike authority."

The definition appears substantially self-explanatory, and considered abstractly I find no facial ambiguity which lends itself to helpful interpretation without reference to particular facts and circumstances. If questions arise in the administration of this section concerning which we can be helpful, we will be happy to respond. At this point, and without reference to a particular question, however, there appears little basis for interpretation of the new definition.

You also inquire concerning the manner in which ineligible connecting links must be removed from the system and, specifically, whether the Secretary must remove connecting links by resolution or whether they are deemed to be removed by operation of law.

Prior to April 21, 1978, the effective date of the bill the term "connecting link" was not defined, and the Secretary was authorized to designate city streets as connecting links free from the constraints of a formal statutory definition. Any street which is designated by the Secretary as a city connecting link on or after April 21, 1978, must fall within one of the four statutory categories comprising the new definition.

"It is a general rule that a statute will only be given retroactive effect when such intention is clearly expressed." *Community High School District of Labette County v. Board of Education of City of Parsons*, 191 Kan. 684, 383 P.2d 976 (1963). Although the new definition of the term "city connecting link" governs all designations made after the effective date of the act, the section should not be applied retroactively to strip existing connecting links, which were designated as such by the Secretary prior to April 21, 1978, and which do not conform to the new definition, of their status as connecting links unless a legislative intent to that effect clearly appears. Section 4 of ch. 271, L. 1978, amends K.S.A. 1977 Supp. 68-416(3) to provide thus in pertinent part:

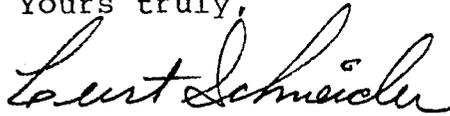
"The secretary of transportation shall annually apportion and distribute quarterly to cities on the state highway system from the highway fund moneys at the rate of one

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thousand two hundred fifty dollars (\$1,250) per lane per mile for the maintenance of streets and highways in said cities designated by the secretary as city connecting links. All said moneys distributed by the secretary shall be credited to the street and alley funds of such cities and shall be used solely for the maintenance of city connecting links."

Thus, from and after April 21, 1978, monies distributed by the Secretary to cities from the highway fund under this provision may be based only upon the mileage of city connecting links as that term is defined in section 3(b) of the bill. The distribution of aid under this section must, as a matter of law, be based only upon the mileage of city connecting links which conform to the definition enacted in 1978, and not upon the mileage of other connecting links designated as such by the Secretary prior to April 21, 1978, which do not conform to the 1978 definition. Thus, for all practical purposes, existing connecting links which are rendered ineligible for such designation by the 1978 definition are, as a matter of law, ineligible to be considered in computing the distribution of funds under K.S.A. 1977 Supp. 68-416, as amended, regardless whether the ineligible connecting links are formally deleted from the system by resolution.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj