



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER  
ATTORNEY GENERAL

November 13, 1978

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 78- 363

Mr. Theodore H. Hill  
County Counselor  
Sedgwick County Courthouse  
Wichita, Kansas 67203

Re: Counties--Home Rule Powers--Petty Cash Funds

Synopsis: Charter Resolution No. 9, adopted by the board of county commissioners of Sedgwick County, is a valid exercise of the home rule power of the county. Opinion No. 78-111 is withdrawn.

\* \* \*

Dear Mr. Hill:

In Opinion No. 78-111, we concluded that a county could not by the exercise of its home rule powers authorize the establishment of a petty cash fund if it is not authorized to do so by statute. We concluded that the use of petty cash funds constituted a departure from the Uniform Procedure for the Payment of Claims and Other Indebtedness, K.S.A. 10-801 *et seq.*, and 12-105, which applies mandatorily to all counties. 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 not in excess of \$200, and prescribes certain conditions concerning the administration thereof.

You enclose a photocopy of Charter Resolution No.9 of Sedgwick County, Kansas, adopted December 3, 1978, whereby the board of county commissioners exempted itself from the constraints of K.S.A. 19-264, and authorized a petty cash fund in an amount not exceeding \$5,000, specifying that the fund shall be used for the advancement of funds to county employees upon application to the

Mr. Theodore H. Hill  
Page Two  
November 13, 1978

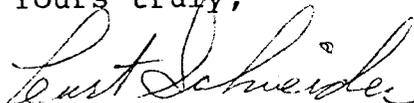
controller for expenditures for travel and other expenses incurred in official county business, that the fund shall not be used for the purchase of materials, equipment, supplies and the like, and that it shall be administered by the county controller, who shall keep accurate accounts of all expenditures from the fund.

K.S.A. 1977 Supp. 19-101a *et seq.*, authorizes counties to exercise home rule powers in two ways. First, counties are empowered to exempt themselves by charter resolution from statutory provisions which apply to them but do not apply uniformly to all counties, and to provide substitute or additional provisions in lieu thereof. In addition, where there is no statutory authority other than K.S.A. 19-101a *et seq.*, the county may utilize its legislative home rule power to authorize proposed county action by ordinary resolution.

Although the Uniform Procedure for the Payment of Claims and Other Indebtedness is mandatorily applicable to all counties on its face, K.S.A. 19-264 *et seq.*, is in fact an exception to the uniformity of the act. Under the referenced statutes, counties with a population in excess of 150,000 may provide for the payment of some claims through disbursements from the petty cash fund rather than through the warrant procedure specified in the Uniform Procedure. As a result, although the Uniform Procedure has the appearance of uniform application, as a result of the exceptions provided in K.S.A. 19-264 *et seq.*, the Uniform Procedure provisions are not uniformly applicable to the payment of all claims by all counties.

Charter Resolution No. 9, a copy of which you enclose, is a valid exercise of the home rule power of the county to exempt itself from a statute which applies to it but does not apply uniformly to all counties, and to provide substitute and additional provisions in lieu thereof. In addition, upon reconsideration of the question, it is my judgment that because the Uniform Procedure does not in fact apply uniformly to the payment of all claims by all counties, that a county may by charter resolution exempt itself from the Uniform Procedure to the extent necessary to authorize the establishment of a petty cash fund in an amount not to exceed that specified in the charter resolution, and prescribe conditions governing the administration of such petty cash funds. For these reasons, Opinion No. 78-111 is withdrawn.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj