



STATE OF KANSAS

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July 2, 1982

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ATTORNEY GENERAL OPINION NO. 82-147

Fred W. Johnson
Labette County Counselor
805 West Fourth Street
Oswego, Kansas 67356

Re: Cities and Municipalities -- General Provisions --
Countywide Retailers Sales Tax; Use of Tax Revenue

Synopsis: Section 1 of 1982 Senate Bill No. 707 authorizes the board of county commissioners of any county to transfer any portion of the revenue received pursuant to K.S.A. 1981 Supp. 12-192 (as amended by Section 1 of 1982 House Bill No. 3117), from the county general fund to the county road and bridge fund. Cited herein: K.S.A. 1981 Supp. 12-192 (as amended by Section 1 of 1982 House Bill No. 3117), K.S.A. 79-2934, Section 1 of 1982 Senate Bill No. 707.

* * *

Dear Mr. Johnson:

On behalf of the Board of County Commissioners of Labette County, you seek an opinion whether the provisions of 1982 Senate Bill No. 707 authorize the Board to transfer revenues received by the county pursuant to the provisions of K.S.A. 1981 Supp. 12-192 (as amended by Section 1 of 1982 House Bill No. 3117), from the county general fund to the county road and bridge fund.

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K.S.A. 1981 Supp. 12-192 (as amended), in addition to prescribing the method of apportionment to be employed in distributing the proceeds of a countywide retailers sales tax, provides: "All revenue retained by the county shall be paid into the general fund."

Section 1 of 1982 Senate Bill No. 707 (1982 SB 707) prescribes:

"The board of county commissioners may transfer any portion of the revenue received pursuant to K.S.A. 1981 Supp. 12-192 from the county general fund to the county road and bridge fund."

We believe the above-quoted language is clear and unambiguous. Moreover, we perceive no conflict between the provisions of K.S.A. 1981 Supp. 12-192 (as amended) and those of 1982 SB 707. Under the provisions of 1982 SB 707, the board of county commissioners may transfer certain funds from the county general fund to the county road and bridge fund. Clearly, in order to transfer money from the county general fund to the road and bridge fund, the revenue must first be "paid into the general fund of the county," as required by K.S.A. 1981 Supp. 12-192 (as amended).

In addition, we note that the provisions of 1982 SB 707 are not in conflict with the requirements of the Budget Law, K.S.A. 79-2925 et seq. K.S.A. 79-2934, in relevant part, provides:

"No part of any fund shall be diverted to any other fund, whether before or after the distribution of taxes by the county treasurer, except as provided by law."

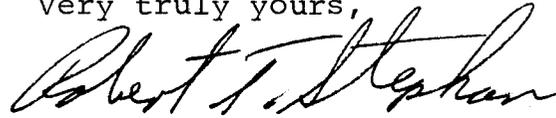
The transfer of revenue from the county general fund to the county road and bridge fund, authorized by 1982 SB 707, clearly comes within the exception specified in K.S.A. 79-2934.

Finally, we note that 1982 SB 707 is not restricted to the board of county commissioners of any particular county or counties. Therefore, it applies to the board of county commissioners of any county that receives revenue under K.S.A. 1981 Supp. 12-192 (as amended).

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Therefore, it is our opinion that Section 1 of 1982 Senate Bill No. 707 authorizes the board of county commissioners of any county to transfer any portion of the revenue received pursuant to K.S.A. 1981 Supp. 12-192 (as amended by Section 1 of 1982 House Bill No. 3117), from the county general fund to the county road and bridge fund.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:may