



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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September 3, 1982

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ATTORNEY GENERAL OPINION NO. 82-186

The Honorable Robert G. Frey
Majority Leader
Kansas House of Representatives
451 Harold Boulevard
Liberal, Kansas 67901

Re: Counties and County Officers -- General Provisions --
Home Rule Powers; Limitations

Synopsis: The exercise of county home rule powers is restricted or limited by K.S.A. 19-101a, Fourth, regarding "acts of the legislature prescribing limits of indebtedness." Even though the limits of bonded indebtedness prescribed by K.S.A. 1981 Supp. 10-306 do not apply uniformly to all counties, a county is precluded by K.S.A. 19-101a, Fourth, from exempting itself from these limits. Cited herein: K.S.A. 1981 Supp. 10-306, K.S.A. 19-101a.

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Dear Representative Frey:

You have requested that this office render an opinion regarding whether pursuant to K.S.A. 19-101a the Board of County Commissioners of Seward County may exempt itself, by charter resolution, from the bonded debt limitations specified in K.S.A. 1981 Supp. 10-306.

K.S.A. 19-101a provides, in pertinent part, as follows:

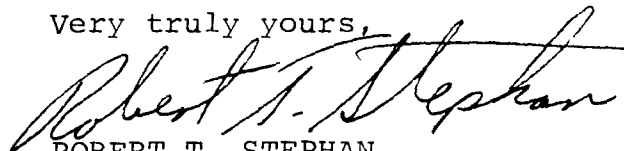
"(a) Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions:
. . . Fourth, counties shall be subject to acts of the legislature prescribing limits of bonded indebtedness." (Emphasis added.)

Robert G. Frey
Page Two

K.S.A. 1981 Supp. 10-306 prescribes the limitations on the aggregate bonded indebtedness which counties are authorized to incur. You correctly note that K.S.A. 1981 Supp. 10-306 is non-uniform in application. However, K.S.A. 1981 Supp. 10-306 is not subject to charter resolution exempting the county from the limitations therein because of the restriction imposed by K.S.A. 19-101a, Fourth. See: Attorney General Opinion Nos. 80-229 and 81-243. (copies enclosed)

In conclusion, the exercise of county home rule powers is restricted or limited by K.S.A. 19-101a, Fourth, regarding "acts of the legislature prescribing limits of bonded indebtedness." Even though the limits of bonded indebtedness prescribed by K.S.A. 1981 Supp. 10-306 do not apply uniformly to all counties, a county is precluded by K.S.A. 19-101a, Fourth, from exempting itself from these limits.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Robert Vinson Eye
Assistant Attorney General

RTS:BJS:RVE:hle

Enc.