



STATE OF KANSAS

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ATTORNEY GENERAL

April 12, 1983

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ATTORNEY GENERAL OPINION NO. 83-57

Darold D. Bolton
Marshall County Attorney
Marshall County Courthouse
Marysville, Kansas 66508

Re: Cities and Municipalities--General Provisions--
Countywide Retailers' Sales Taxes; Pledging of
Revenue Received

Synopsis: A county has no authority to adopt a resolution which modifies the statutory formula, prescribed in K.S.A. 12-192, for apportioning revenue received from a countywide retailers' sales tax. However, pursuant to K.S.A. 12-197, a county may adopt a resolution, according to the procedure prescribed by K.S.A. 19-117, pledging a portion of the county's share of a countywide retailers' sales tax (if such tax is approved by the voters) for services or improvements to be provided by the county within townships located in the county. Cited herein: K.S.A. 12-192, 12-197, K.S.A. 1982 Supp. 19-101a, K.S.A. 19-117.

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Dear Mr. Bolton:

You request our interpretation of K.S.A. 12-197. Specifically, you ask whether said statute authorizes the Board of County Commissioners of Marshall County to adopt a resolution whereby a portion of the revenue from a countywide retailers' sales tax would be "earmarked or designated to go to the townships" within the county.

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K.S.A. 12-197 provides, in part, as follows:

"[T]he board of commissioners of any county which has adopted an ordinance or resolution submitting to the electors of such . . . county a proposition on the imposition of a retailers' sales tax within such . . . county in accordance with the provisions of K.S.A. 12-187 . . . may adopt an ordinance or resolution pledging the general purposes proposed for the future use of all or a portion of the revenue to be received from such tax if the same is approved by the voters. Such ordinance or resolution shall be adopted in accordance with the provisions and procedural requirements of K.S.A. 12-137 or K.S.A. 19-117 and shall continue in effect for the time specified therein unless the same is repealed or amended in accordance with the provisions and procedural requirements of the appropriate statute." (Emphasis added.)

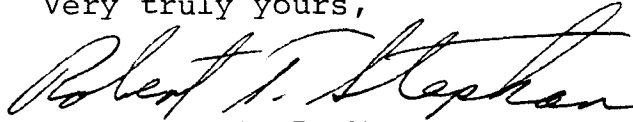
The authority to pledge "the general purposes proposed for the future use" of a portion of countywide sales tax revenue does not, in our opinion, authorize a county to prescribe its own formula for apportioning the tax. The revenue from a countywide retailers' sales tax must be apportioned among the county and each city located therein pursuant to the provisions of K.S.A. 12-192, and county home rule powers are specifically subject to the provisions of said statute. K.S.A. 1982 Supp. 19-101a(a), Eighth.

Although a county may not, in our judgment, adopt a resolution which modifies the apportionment formula prescribed by K.S.A. 12-192, a county is specifically authorized, by K.S.A. 12-197, to pledge "the general purposes proposed for the future use" of all or a portion of the county's share of a countywide retailers' sales tax. Pursuant to said statutory authority, it is our opinion that a county may adopt a resolution, according to the procedure prescribed by K.S.A. 19-117, pledging a portion of the county's share of a countywide retailers' sales tax (if such tax is

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approved by the voters) for services or improvements to be provided by the county within townships located in the county.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm