



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 84- 117

Robert L. Earnest
Russell City Attorney
P. O. Box 72
410 North Main Street
Russell, Kansas 67665

Re: Bonds and Warrants--Cash-Basis Law--Lease or
Installment-Purchase Agreements

Synopsis: Under the provisions of K.S.A. 10-1116b, a municipality may enter into an installment-purchase agreement which provides for payments extending beyond its current budget year, provided that the agreement specifically states that the municipality is obligated only to pay periodic payments or monthly installments as have been provided for in the budget of the municipality for the current budget year, or which can be paid from funds derived from a lawfully operated revenue producing source. Since the obligation of the municipality under such an agreement is limited by the specific statement required by K.S.A. 10-1116b, the agreement does not violate either the budget law or the cash-basis law. Cited herein: K.S.A. 10-1116b, 79-2935.

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Dear Mr. Earnest:

You request our opinion as to whether an installment-purchase agreement, which includes a specific statement phrased in the clear and unambiguous language of K.S.A. 10-1116b, violates the provisions of K.S.A. 79-2935. The last-cited statute is part of the budget law, and prohibits a municipality from

incurring indebtedness "in any manner or in any fund" in excess of the adopted budget of expenditures for each budget year.

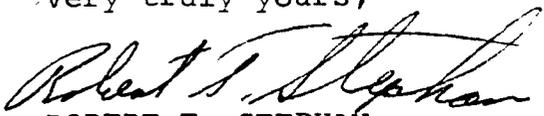
K.S.A. 10-1116b provides as follows:

"Nothing in the provisions of K.S.A. 10-1101 et seq. shall prohibit a municipality from entering into (1) an agreement to pay for electric interconnection or transmission facilities or services, (2) a lease agreement, with or without an option to buy, or (3) an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source." (Emphasis added.)

Pursuant to the above-quoted statute, an installment-purchase agreement does not violate the cash-basis law where the agreement specifically states that the municipality is obligated only to pay periodic payments or monthly installments as have been provided for in the budget of the municipality for the current budget year, or which can be paid from funds derived from a lawfully operated revenue producing source. Clearly, under this statute, an installment-purchase agreement may not obligate a municipality to make payments in any year subsequent to its current budget year.

Since a valid installment-purchase agreement executed under K.S.A. 10-1116b is conditioned on the availability of funds annually budgeted for that purpose, it is evident that under such an agreement a municipality does not incur an indebtedness in violation of K.S.A. 79-2935. Accordingly, in our opinion the execution of an installment-purchase agreement which includes a specific statement phrased in the clear and unambiguous language of K.S.A. 10-1116b does not violate either the budget law or the cash-basis law.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Terrence R. Hearshman
Assistant Attorney General