



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 92-152

Steven W. Hirsch  
Decatur County Attorney  
P.O. Box 296  
Oberlin, Kansas 67749

Re: Counties and County Officers -- County  
Commissioners -- Authority to Purchase Equipment  
for Another County Entity

Synopsis: The Decatur board of county commissioners cannot  
buy a plow with money from the county general fund  
to give to the soil conservation district so that  
they can lease it to private individuals.  
Cited herein: K.S.A. 2-1907b; 19-119; Kan.  
Const., Art. 11, § 5.

\* \* \*

Dear Mr. Hirsch:

As Decatur county attorney, you request our opinion as to  
whether the Decatur board of county commissioners can  
purchase a plow with general fund money on behalf of the soil  
conservation district and then the soil conservation district  
lease out the equipment to private individuals.

In Attorney General Opinion No. 87-75, we opined that:

"Article 11, § 5 of the Kansas  
Constitution requires that a tax be used  
for the purpose for which it was levied.  
The Kansas Supreme Court has determined  
that a general revenue tax is levied to  
cover the usual, ordinary current expenses  
of the county. Since Rawlins County  
expenses related to the prevention of soil

erosion must be classified as special or extraordinary, rather than usual or ordinary, the prevention of soil erosion is not a matter which falls within the purposes for which the general tax levy is made. Accordingly, use of general fund revenue to finance the prevention of soil erosion would violate Article 11, § 5 of the Kansas Constitution. Such a use would also violate the provisions of K.S.A. 2-2001 et seq., the statutes which deal with wind-blown dust and soil erosion."

Since the plow is to be used for terrace repair, such use would not be deemed as a usual and ordinary expense of the county, but would be more like the prevention of soil erosion and thus use of general fund money for this purpose would violate article 5, § 11 of the Kansas constitution.

Furthermore, because the county is contemplating giving the equipment to the soil conservation district (SCD) there are other statutory constraints. K.S.A. 2-1907b allows the county to give the SCD \$10,000 out of the general fund so as to allow the supervisors to carry out their duties. In addition, the board of county commissioners "may levy an annual tax against the taxable tangible property within the district, not to exceed 2 mills or \$55,000, whichever is less, to provide additional moneys for the operation of the conservation district." K.S.A. 2-1907b. The monies raised by the levy shall be used for "activities and functions of the district including cost of travel and expenses of supervisors and employees of the district incurred within the state, educational materials, conservation awards, annual meeting expenses, excluding meals, and membership dues to conservation related organizations." K.S.A. 2-1907b. Based on this outline of appropriate expenses it does not appear that purchase of a plow would fit within this category.

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
Mary Jane Stattelma  
Assistant Attorney General