

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENTThe meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson1:30 ~~am~~/p.m. on FEBRUARY 23, 1984 in room 521-S of the Capitol.All members were present except: Representative Robert D. Miller, Excused
Representative George R. Dean, Excused
Representative Mary Jane Johnson, Excused

Committee staff present:

Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee:

Representative Marvin E. Smith, HB 2957
Mr. Darold Main, Intergovernmental Coordinator, Shawnee Co., HB 2957
Mr. Fred Allen, Kansas Assn. of Counties, HB 2957
Representative Charles Laird, HB 2957
Representative Kenneth D. Francisco, HB 2966
Mr. Jerry Marlatt, Kansas State Council of Firefighters, HB 2966
Mr. Jim Kaup, League of Kansas Municipalities, HB 2966
Ms. Mary Ellen Conley, City of Wichita, HB 2966
Mr. Joe Odle, Firefighter, Kansas City, Ks., HB 2966

Chairman, Ivan Sand, called for hearings on the following House Bills:

HB 2957, concerning counties; relating to the issuance of bonds for construction of civic centers; -By Rep. SmithMike Heim, Staff, gave a brief overview of the bill. (See Attachment I.)Representative Marvin Smith, sponsor of the bill, appeared to give background and intent of the bill. (See Attachment II.)

Mr. Darold Main, representing the Board of County Commissioners of Shawnee County, testified in opposition to the bill. Main stated that Shawnee County Commissioners acted in good faith on behalf of a bond counselor regarding the 1983 Twenty Million Dollar bond issue in connection with a proposed auto racetrack; that the Commission has no intention of going ahead with the charter resolution; that the Commission is concerned about the addition of 18 amendments to the Home Rule Statute.

Mr. Fred Allen, Kansas Assn. of Counties, spoke "on a concept rather than on a particular bill." Allen noted that counties have been proud of and have enjoyed Home Rule for ten years; that at first there were minimal restrictions; that it would be more feasible to pass laws that are uniformly applicable to all counties than tack amendments onto the Home Rule law.

Representative Charles Laird, testified that he supports the positions of both Representative Smith and Mr. Main; that he feels the County Commissioners act prudently.

The hearing on HB 2957 was closed.

HB 2966, concerning residency requirements for firemen. - By Rep. FranciscoMike Heim, Staff, gave a brief overview of the bill. (See Attachment III.)

Mr. Jerry Marlatt, Kansas State Council of Firefighters, testified in support of the bill. Marlatt stated that several residency requirements throughout the State of Kansas are very inconsistent; that a moral issue rather than a legal issue is involved; that there have been conflicting court decisions; that the quality of the man should be the concern, not

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,

room 521-S, Statehouse, at 1:30 ~~a.m.~~ p.m. on FEBRUARY 23, 1984.

a street address; that HB 2966 gives the Legislature the ability to correct discrimination.

The question of whether the bill should include all employees of the state was raised.

Also, questioned was whether "residency requirements" had ever been attacked on constitutional grounds.

The issue of response time to the job site was noted; that weather could be a factor.

Mr. Jim Kaup, League of Kansas Municipalities, testified in opposition to the bill. Kaup stated that local governments should be able to handle their own affairs without Legislative action; that residency requirements are "durational", i.e. "the employee has to have been a resident for a given period of time;" or "continuous", i.e. "employee must maintain residence in an appropriate area while employed;" that the Federal Supreme Court and State Supreme Court have both spoken on this subject; that residency requirements reduce absenteeism and tardiness and provide ready, trained personnel; that residency requirements also provide general economic benefits to a city and make an incentive to halt the flight from the central cities; that emergency personal response time is less if employees are spread out too far; that in one city the question of residency is bargained with the employee union; that residency requirements have been held to be lawful; that the State Legislature is not needed to address a local problem.

Ms. Mary Ellen Conley, representing the City of Wichita, appeared in opposition to the bill. Conley stated that she would agree that the problem of residency should be handled locally; that residency should be defined and the time limit needed for emergency workers should come before the City Commission.

Mr. Joe Odle, Firefighter, Kansas City, Kansas, appeared in support of HB 2966. Odle stated that in the City of Kansas City, when hired if he had the title, "Expert," he could live outside the city; then the rule was changed to "anywhere within the county;" then last year, it was changed to "within the city;" that there was no "grandfathering;" that he lives twenty minutes from his station; that negotiations are going on after which they will go to court; that the Police Department wasn't included in the bill because it was processed through the State Fire Council; that all city employees are affected by the requirements -- unless they are classified as "Expert."

The hearing on HB 2966 was closed.

Chairman Sand called for discussion and possible action on the following bills:

HB 2918, concerning county attorneys; relating to the method of selection thereof; - By Rep. Heinemann

Representative Steve Schweiker made a conceptual motion to amend Section 3 to include the designation of not less than five per cent for the petition. Representative Dorothy Nichols seconded the motion. Motion carried.

Discussion followed.

Representative Steve Schweiker moved and Representative Dorothy Nichols seconded that HB 2918 be passed. A vote by hand indicated six "yes" and seven "no." Motion failed.

CONTINUATION SHEET

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HB 2892, concerning fire districts; relating to property annexed by cities. - By Rep. D. Miller

It was noted that Staff is researching statutes, as some confusion exists about whether another section of statute needs to be amended to accomplish the intent of the bill.

The minutes of February 21, 1984, were approved as presented.

Meeting adjourned.

MEMORANDUM

February 21, 1984

TO: House Local Government Chairman
FROM: Mike Heim, Kansas Legislative Research Department
RE: H.B. 2957

H.B. 2957 amends a law permitting Seward, Shawnee, and Wyandotte counties to issue general obligation bonds for civic and other multi-use public facilities. The bill provides that general obligation bonds issued by Shawnee County shall be subject to the county's bonded debt limits unless the voters have approved the bond issue. The proposition at the election shall state the total county bonded debt and the amount the proposed bonds will exceed the debt limit. The county home rule statute is amended by an 18th limitation to prohibit any charter resolution out of the civic center act and to nullify any previously adopted charter resolution.

(ATTACHMENT I)

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N E 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER EDUCATION
FEDERAL AND STATE AFFAIRS

HOUSE OF
REPRESENTATIVES

FEBRUARY 23, 1984

RE: HOUSE BILL 2957

TO: HOUSE LOCAL GOVERNMENT COMMITTEE

MR. CHAIRMAN AND MEMBERS OF COMMITTEE:

I appreciate the opportunity to bring my concerns regarding H.B. 2957.

Last year about this time, the Shawnee Delegation was asked to support HB 2025, which would give approval for the Civic Center bonds that had been approved by the voters of Shawnee County in April of 1982, to exceed the counties bond limit.

The Delegation gave unanimous approval and subsequently HB 2025 passed and became law.

In November 1983 the Shawnee County Commissioners approved a home-rule resolution, CH-83-6, exempting from the Civic Center statutes the vote of the electorate for \$20,000,000.00 general obligation bonds. They provided in the resolution for a 20% protest in 15 days for an election.

After some protest from constituency they offered another resolution, CH-83-7, for \$6,000,000.00 - and rescinded the \$20,000,000.00 But not calling an election as provided in law.

In December 1983, Senator Pomeroy, Representatives Barr, Hensley and Smith asked for an opinion from the Attorney General concerning the home rule resolution exempting a called election for the general obligation bonds and the issue of exceeding the counties bond limit.

I have an attached copy of the Opinion No. 84-5 concerning the questions.

On lines 98-102, we are proposing counties may not exempt from or effect changes in KSA 19-15,139, 19-15,140 and 19-15,141.

Also lines 121-132, we are asking that legislation provide when bonds will exceed the debt limit in Shawnee County, that the voters be provided the opportunity on a ballot to approve or reject exceeding the bond limit.

(ATTACHMENT II)

STATE OF KANSAS

ELWAINE F. POMEROY
SENATOR, EIGHTEENTH DISTRICT
PRIVATE OFFICE:
1415 TOPEKA AVENUE
TOPEKA, KANSAS 66612
PHONE 357-0311



TOPEKA

STATEHOUSE
ROOM 143-N
PHONE 296-7359

COMMITTEE ASSIGNMENTS
CHAIRMAN JUDICIARY
VICE-CHAIRMAN LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
MEMBER COMMERCIAL AND FINANCIAL
INSTITUTIONS
FEDERAL AND STATE AFFAIRS
INTERSTATE COOPERATION COMMISSION
ORGANIZATION, CALENDAR AND RULES

MEMBER KANSAS JUDICIAL COUNCIL
COMMISSIONER NATIONAL CONFERENCE
OF COMMISSIONERS ON
UNIFORM STATE LAWS

December 23, 1983

Honorable Robert T. Stephan
Attorney General
Second Floor
Judicial Center

Dear General Stephan:

I and other members of the Shawnee County Legislative Delegation including Representative Anthony Hensley, Representative Marvin Smith and Representative Ginger Barr are concerned about the legality of a charter resolution recently adopted by the Shawnee County Commission. A copy of the charter resolution is enclosed.

The charter resolution exempts Shawnee County from certain provisions of a law authorizing several counties to issue general obligation bonds for "civic and other multi-use public facilities" if voters approve. The bonds are not subject to the bonded debt limits of the county.

Specifically, the charter resolution authorizes Shawnee County to issue not to exceed \$6 million in general obligation bonds without a vote of the people but subject to an abbreviated protest petition procedure and provides that these bonds shall not be subject to the county's bonded debt limits. The purpose of this charter resolution is to permit the construction of a race track and a headquarters office for the Sports Car Club of America near Forbes Field.

We share several concerns which we would like you to address. First, may K.S.A. 19-15,139 et seq., as amended, be utilized more than one time either by adopting a charter resolution as the county has done or by following the statutory procedures a second time and placing the proposition of the issuance of more general obligation bonds before the voters. Shawnee County voters, on April 5, 1983, already have approved a \$19.7 million general obligation bond issue and the law in question only authorizes a total of \$20 million in general obligation bonds to be issued.

Our second and related concern is that the charter resolution violates the county home rule law which mandates that counties shall be subject to all acts of the Legislature prescribing bonded debt limits. The charter resolution exempts approximately an additional \$6 million in general obligation bonds above that which the civic center law allows.

Finally, the county home rule law stipulates that counties shall be subject to all acts of the Legislature concerning elections. The charter resolution exempts the county from the mandatory election required by the civic center law and provides instead for an abbreviated protest petition and election procedure.

We believe the action of the Shawnee County Commission violates the legislative intent of both the civic center law and the county home rule act for the reasons cited herein. Your prompt response to our opinion request will be greatly appreciated.

Sincerely,



Elwaine F. Pomeroy
State Senator
District 18

cc: Representative Hensley
Representative Smith
Representative Barr

148-83
Mini L

CHARTER RESOLUTION NO. CH-83-7

A CHARTER RESOLUTION EXEMPTING SHAWNEE COUNTY, KANSAS FROM THE PROVISIONS OF K.S.A. 19-15,140 AND K.S.A. 19-15,141, BOTH AS AMENDED, AND SUBSTITUTING NEW PROVISIONS THEREFOR.

WHEREAS, K.S.A. 19-15,140 and K.S.A. 19-15,141, both as amended, are part of an act which applies to Shawnee County, but does not apply uniformly to all counties; and

WHEREAS, the Board of County Commissioners of Shawnee County has authority pursuant to K.S.A. 19-101(a) and K.S.A. 19-101(b) to perform such powers of local legislation as deemed appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHAWNEE COUNTY, KANSAS as follows:

Section 1. Shawnee County, Kansas hereby elects to exempt itself from and make inapplicable to it, K.S.A. 19-15,140 and K.S.A. 19-15,141.

Section 2. In order to carry out the authority granted in K.S.A. 19-15,139, as amended, and for no other purpose the Board is hereby authorized to issue general obligation bonds not to exceed \$6,000,000. The Board of County Commissioners shall publish a notice of intention to issue general obligation bonds. If, within fifteen (15) days after the publication of such notice in the official paper, there shall be filed with the County Clerk written protest against the issuance of such bonds signed by not less than twenty percent (20%) of the qualified electors of such County, the Board of County Commissioners shall thereupon submit

the proposed project and proposed bond issue to the electors of the County at a special election to be called for that purpose upon at least ten day's notice, to be held not later than sixty (60) days after the filing of such protest or at a general election which will occur not sooner than thirty (30) days nor not later than sixty (60) days after the filing of such protest. In the event that a majority of such voters voting on such proposition at such election shall vote in favor thereof, such proposed improvements shall be made and such bonds may be issued in payment of the cost thereof.

Section 3. Bonds issued pursuant to K.S.A. 19-15,140, as amended, or charter resolutions in substitute therefor, by Shawnee County shall not be subject to or within any bonded debt limitation fixed by any other law of this state.

Section 4. This Charter Resolution shall be published once each week for two (2) consecutive weeks in the official County newspaper.

Section 5. This Charter Resolution shall take effect sixty (60) days after its final publication unless a sufficient petition for a referendum is filed as provided by law, in which case this Resolution shall become effective upon approval by a majority of the electors voting at an election held on this Resolution.

Section 6. Charter Resolution No. CH-83-6 is hereby repealed.

ADOPTED this 8th day of December, 1983.

BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS

Approved as to Legality
and Form: Date 9 Dec 83

[Signature]
Shawnee Co. Counselor

Velma Paris
Velma Paris, Chairperson

Richard A. Maner
Richard A. Maner, Commissioner

ATTEST:

Winifred L. Kingman
Winifred L. Kingman, Commissioner

Patsy A. McDonald
Patsy A. McDonald, County Clerk

(SEAL)

5-21-83
710

RESOLUTION NO. 83-79

RESOLUTION AUTHORIZING AND DIRECTING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF SHAWNEE COUNTY, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF NINETEEN MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$19,700,000) FOR THE PURPOSE OF PROVIDING FUNDS TO CONSTRUCT ON THE SHAWNEE COUNTY FAIRGROUNDS A CIVIC CENTER COMPLEX CONSISTING OF BUILDINGS AND PARKING FACILITIES AND TO REMODEL AND EQUIP CERTAIN EXISTING PUBLIC BUILDINGS, TOGETHER WITH ALL THINGS NECESSARY AND INCIDENTAL THERETO, PURSUANT TO THE AUTHORITY OF K.S.A. 19-15,139 ET SEQ., K.S.A. 19-15,114 ET SEQ. AND ARTICLE 1 OF CHAPTER 10 OF THE KANSAS STATUTES ANNOTATED, AND ALL AMENDMENTS THERETO; APPOINTING A FISCAL AGENT AND CO-PAYING AGENT; AND AUTHORIZING THE EXECUTION OF THE OFFICIAL STATEMENT.

WHEREAS, at an election duly called and held in Shawnee County, Kansas, on April 5, 1983, a majority of the qualified electors voting on the proposition to issue and sell general obligation bonds of Shawnee County, Kansas, in the aggregate principal amount of not exceeding Nineteen Million Seven Hundred Thousand Dollars (\$19,700,000) for the purpose of providing funds to construct on the Shawnee County Fairgrounds a civic center complex consisting of buildings and parking facilities and to remodel and equip certain existing public buildings, together with all things necessary and incidental thereto, under the authority of K.S.A. 19-15,139 et seq., 19-15,114 et seq., all as amended, and Article 1 of Chapter 10 of the Kansas Statutes Annotated and all amendments thereto, voted in favor of authorizing the Board of County Commissioners of Shawnee County, Kansas (the "Board"), to issue bonds of said County in the aggregate principal amount of Nineteen Million Seven Hundred

Thousand Dollars (\$19,700,000), to pay for the construction of said civic center complex and to remodel and equip certain existing public buildings on the Shawnee County Fairgrounds (the "Improvements").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHAWNEE COUNTY, KANSAS:

Section 1. That the construction of the Improvements is hereby deemed and declared to be necessary and the same is hereby authorized and ordered to be done in accordance with the plans and specifications as approved by the Board.

Section 2. That the entire cost of the Improvements herein provided for shall be paid for by the issuance of general obligation bonds of the County as authorized by K.S.A. 19-15,139 et seq., 19-15,114 et seq., all as amended, and Article 1 of Chapter 10 of the Kansas Statutes Annotated and all amendments thereto.

Section 3. That it is hereby deemed and declared necessary and ordered that to provide funds to pay the cost of said Improvements as above described, there shall be and hereby are issued general obligation bonds of the County in the aggregate principal amount of Nineteen Million Seven Hundred Thousand Dollars (\$19,700,000), \$19,640,000 of said amount pursuant to K.S.A. 19-15,140 and \$60,000 of said amount pursuant to K.S.A. 19-15,116, all as amended, said bonds to be designated Series 1983-3 (Civic Center), (the "Bonds"), to be dated June 1, 1983, shall consist of coupon Bonds to be numbered from 1 through 3,940, inclusive, to be in the denomination of \$5,000 each and to

bear interest and to become due and payable as set forth in the following schedule:

NUMBER	AMOUNT	INTEREST	MATURITY
1 - 170	October 1, 1984	10.25%	\$ 850,000
171 - 340	October 1, 1985	10.25%	850,000
341 - 540	October 1, 1986	10.25%	1,000,000
541 - 740	October 1, 1987	10.25%	1,000,000
741 - 940	October 1, 1988	10.25%	1,000,000
941 - 1140	October 1, 1989	10.25%	1,000,000
1141 - 1340	October 1, 1990	8.30%	1,000,000
1341 - 1540	October 1, 1991	8.30%	1,000,000
1541 - 1740	October 1, 1992	8.30%	1,000,000
1741 - 1940	October 1, 1993	8.70%	1,000,000
1941 - 2140	October 1, 1994	8.70%	1,000,000
2141 - 2340	October 1, 1995	8.70%	1,000,000
2341 - 2540	October 1, 1996	9.00%	1,000,000
2541 - 2740	October 1, 1997	9.00%	1,000,000
2741 - 2940	October 1, 1998	9.00%	1,000,000
2941 - 3140	October 1, 1999	9.00%	1,000,000
3141 - 3340	October 1, 2000	9.00%	1,000,000
3341 - 3540	October 1, 2001	9.00%	1,000,000
3541 - 3740	October 1, 2002	7.75%	1,000,000
3741 - 3940	October 1, 2003	7.75%	1,000,000

The interest on said Bonds shall be payable on April 1, 1984, and semiannually thereafter on the first days of October and April of each year until said principal sum shall have been paid. The principal of and interest on said Bonds shall be payable in lawful money of the United States of America at The Merchants National Bank of Topeka, Topeka, Kansas, hereinafter designated for purposes of this issue of Bonds as the County's "Fiscal Agent," or at Morgan Guaranty Trust Company of New York, New York, hereinafter designated as the County's "Co-Paying Agent."

Section 4. Bonds maturing October 1, 1993, and thereafter are subject to call for redemption and payment at the option of the County on October 1, 1992, or on any interest payment date thereafter in inverse numerical order at the redemption prices

(expressed as percentages of principal amount set out below) plus accrued interest thereon to the date fixed for redemption and payment:

<u>Redemption Dates</u> <u>(both dates inclusive)</u>	<u>Redemption Price</u>
October 1, 1992	102%
April 1, 1993 and October 1, 1993	101½%
April 1, 1994 and October 1, 1994	101%
April 1, 1995 and October 1, 1995	100½%
April 1, 1996 and thereafter	100%

Section 5. Notice of any such call for redemption will be given by the County by publication one time in the official state newspaper and in a financial journal published in the City and State of New York; said publication shall be not less than thirty (30) days prior to the date fixed for redemption. Notice of any call for redemption will also be mailed by United States registered or certified mail to the original purchaser of the Bonds not less than thirty (30) days prior to the date fixed for redemption. Interest on Bonds called for redemption and payment will cease to accrue as of the effective date of redemption, provided funds are then available to pay the full redemption price thereof.

Section 6. Such Bonds and coupons shall contain recitals and be in the form and in the size as provided by the statutes of the State of Kansas and shall be in substantially the following form:

NUMBER

DOLLARS

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF SHAWNEE
GENERAL OBLIGATION BOND
SERIES 1983-3
(CIVIC CENTER)

KNOW ALL MEN BY THESE PRESENTS:

That the County of Shawnee, in the State of Kansas, for value received, hereby acknowledges itself to be indebted and promises to pay the bearer the sum of

FIVE THOUSAND DOLLARS

in lawful money of the United States of America, on the first day of October, 1984, with interest thereon from the date hereof at the rate of _____ percent (____%) per annum, payable April 1, 1984 and semiannually thereafter on the first days of October and April of each year until said principal sum shall have been paid, upon presentation and surrender of the interest coupons hereto annexed, bearing the facsimile signatures of the Chairperson of the Board of County Commissioners and the County Clerk of Shawnee County, Kansas, as said coupons severally become due, both principal and interest of this Bond being payable at The Merchants National Bank of Topeka, Topeka, Kansas or at Morgan Guaranty Trust Company of New York, New York, New York. And said County of Shawnee, State of Kansas, is held and firmly bound by these presents, and the full faith, credit and resources of said County are hereby irrevocably pledged for the prompt payment of said principal and interest at maturity.

This Bond is one of a series of three thousand nine hundred forty (3,940) Bonds of like date and tenor, excepting interest rate, privilege of redemption and maturity, aggregating the principal sum of Nineteen Million Seven Hundred Thousand Dollars (\$19,700,000) issued by said Shawnee County, Kansas for the purpose of providing funds to pay the cost of constructing on the Shawnee County Fairgrounds a civic center complex consisting of buildings and parking facilities and to remodel and equip certain existing public buildings, together with all things necessary and incidental thereto, as provided by resolutions duly passed by the Board of County Commissioners of Shawnee County, Kansas.

And it is hereby certified and recited that this bond is authorized under the authority of K.S.A. 19-15,139 et seq., K.S.A. 19-15,114 et seq., and Article 1 of Chapter 10, K.S.A., and all amendments thereto, and is issued in full conformity with

the provisions, restrictions and limitations of the Constitution and the Laws of the State of Kansas and all other laws of said state applicable to said issue, and this Bond and all other Bonds of said series, and all interest thereon, are to be paid by Shawnee County, Kansas.

Each of the Bonds of the series of which this Bond is one, maturing in the years 1993 through 2003, inclusive, may, at the option of the County, be called for redemption and payment prior to maturity as a whole or in part in inverse numerical order on October 1, 1992, or on any interest payment date thereafter at the redemption prices (expressed as percentages of principal amount set out below) plus accrued interest thereon to the date fixed for redemption any payment:

<u>Redemption Dates</u> <u>(both dates inclusive)</u>	<u>Redemption Price</u>
October 1, 1992	102%
April 1, 1993 and October 1, 1993	101½%
April 1, 1994 and October 1, 1994	101%
April 1, 1995 and October 1, 1995	100½%
April 1, 1996 and thereafter	100%

In the event of any such redemption, the County shall give written notice of its intention to redeem and pay said Bonds or any of them, the same being described by number and maturity, said notice to be given by the County by publication one time in the official state newspaper and in a financial journal published in the City and State of New York; said publication to be not less than thirty (30) days prior to the date fixed for redemption. Notice of any call for redemption will also be mailed by United States registered or certified mail to the original purchaser of the Bonds not less than thirty (30) days prior to the date fixed for redemption. Interest on Bonds called for redemption and payment will cease to accrue as of the effective date of redemption, provided funds are then available to pay the full redemption price thereof.

This Bond shall not be valid or binding on said County until this Bond shall have been authenticated by the execution by the Fiscal Agent of the Certificate of Authentication hereon.

And it is hereby declared and certified that all acts, conditions and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and Laws of the State of Kansas, and that the total indebtedness of said County including this series of Bonds does not exceed any constitutional or statutory limitation.

This Bond is negotiable.

STATE TREASURER'S CERTIFICATE

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

I, JOAN FINNEY, Treasurer of the State of Kansas, do hereby certify that a full and complete transcript of the proceedings leading up to the issuance of this Bond has been filed in my office and this Bond and the coupons attached hereto were registered in my office according to law this

WITNESS My Hand and Official Seal.

Treasurer of the State of Kansas

BY: _____
Assistant State Treasurer

(FACSIMILE SEAL)

FISCAL AGENT'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Resolution.

THE MERCHANTS NATIONAL BANK OF
TOPEKA, as Fiscal Agent

BY: _____
Authorized Officer

LEGAL OPINION

I, the undersigned, County Clerk of Shawnee County, Kansas, hereby certify that the following is a true and correct copy of the complete, final legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, on the within Bond and the series of which said Bond is a part, except that it omits the date of such opinion; that said legal opinion was legally executed and was dated and

issued as of the date of delivery of and payment for such Bond and is on file in the office of the County Clerk of Shawnee County, Kansas.

facsimile
County Clerk

Gentlemen:

We have acted as bond counsel in connection with the issuance by Shawnee County, Kansas (the "Issuer") of \$19,700,000 General Obligation Bonds, Series 1983-3 (Civic Center) dated June 1, 1983, (the "Bonds"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify such facts by independent investigation.

We have participated in the drafting of the Official Statement, but have not independently verified any of the factual information contained in the Official Statement, nor have we conducted an investigation of the affairs of the County for the purpose of passing upon the accuracy or completeness of the Official Statement. No person is entitled to rely upon our limited participation as an assumption of responsibility for, or an expression of opinion of any kind with regard to, the accuracy or completeness of any of the information contained herein.

Based on our examination, we are of the opinion as of the date hereof, as follows:

1. The Bonds are valid and binding general obligations of the Issuer.
2. All the taxable tangible property in the territory of the Issuer is subject to ad valorem taxation without limitation as to rate or amount to pay the Bonds. The Issuer is required by law to include in its annual tax levy the principal and interest coming due on the Bonds to the extent the necessary funds are not provided from other sources.
3. Under existing law, the interest on the Bonds is exempt from federal income taxation and the Bonds and the income derived therefrom are exempt from all present state, county and municipal taxation in the State of Kansas, except income and inheritance taxes of the State of Kansas.

We certify that we have examined Bond No. 1 of the Bonds and we are of the opinion that said bond is executed and registered as provided by law.

It is to be understood that the rights of the holders of the Bonds and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and that their enforcement may be subject to the exercise of judicial discretion in accordance with general principles of equity.

NICHOLS AND WOLFE CHARTERED

Section 7. Said Bonds shall be signed by the facsimile signature of the Chairperson of the Board and attested by the facsimile signature of the County Clerk, and the official County seal shall be imprinted thereon. Said Bonds shall be registered in the office of the County Clerk, which registration shall be evidenced by the certificate on the reverse face thereof bearing the manual signature of the County Clerk and shall have a facsimile of the County seal imprinted thereon, and the interest coupons shall be signed by the facsimile signatures of the Chairperson and of the County Clerk. The Bonds shall be both registered in the office of the State Treasurer, the evidence of which shall be the manual certificate of the said office, and authenticated by the Fiscal Agent, The Merchants National Bank of Topeka. That none of the Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication on each of such Bonds substantially in the form set forth herein shall have been duly executed by the Fiscal Agent, and such executed certificate of the Fiscal Agent upon any of such Bonds

shall be conclusive evidence that such Bond has been authenticated and delivered under this Resolution.

Section 8. The Merchants National Bank of Topeka, Topeka, Kansas, is hereby appointed and designated as fiscal agent for payment of the principal of and interest on the Bonds. Morgan Guaranty Trust Company of New York, New York, New York, is hereby appointed and designated co-paying agent for the Bonds.

Section 9. The Chairperson of the Board and the County Clerk are hereby authorized to prepare and execute said Bonds and coupons, and when so executed shall be registered as required by law, and the Board of County Commissioners shall annually make provision for the payment of the principal of and interest on said Bonds as the same shall become due. The Chairperson and the County Clerk are hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts or things necessary and proper for carrying out the transactions contemplated by this Resolution and the Official Statement.

Section 10. That if, when the Bonds secured hereby shall have become due and payable in accordance with their terms, or shall have been called for redemption, the whole amount of the principal and interest and premium, if any, so due and payable on all the Bonds and coupons outstanding shall be paid or sufficient moneys or direct obligations of the United States government, or obligations on which the principal of and interest on are guaranteed by the United States government, the principal of or interest on which when due will provide sufficient money, shall

be held by a paying agent or shall have been deposited in trust with an escrow trustee for the purpose of paying said Bonds and interest, and provisions shall have been made for paying all other sums payable hereunder by the County, then and in that case, the right, title and interest of the holders of the Bonds secured hereby and the revenues, funds and accounts mentioned in this Resolution shall thereupon cease, determine and become void, and the Board in such case shall repeal and cancel this Resolution and may apply any surplus in any account or fund other than moneys held for redemption or paying of Bonds or coupons, to any lawful purpose of the County and the Board shall determine.

Section 11. That the County covenants and agrees that no part of the proceeds from the Bonds or other proceeds shall be used, at any time, directly or indirectly in a manner which if such use had been reasonably anticipated on the date of the issuance of the Bonds would have caused any of the Bonds to be or become "Arbitrage Bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, and the Regulations of the Treasury Department thereunder proposed or in effect at the time of such use applicable to obligations issued on the date of issuance of the Bonds.

Section 12. The County hereby approves in all respects the use of the Official Statement by the original purchaser of the Bonds in connection with the offering and sale of the Bonds. The form of the Official Statement, as submitted to this meeting and incorporated by reference as is set forth in full herein, be and the same, is hereby approved. The Board is hereby authorized and

directed to execute the Official Statement in the name of and on behalf of Shawnee County, Kansas.

Section 13. The Chairperson is hereby authorized to approve any changes in any document that such Chairperson is authorized by this Resolution to execute, and such Chairperson's execution of any such document shall be deemed to be approval of any such change.

Section 14. All previous action heretofore taken by the officers of Shawnee County, Kansas, relating to the issuance of the Bonds is hereby approved in all respects.

Section 15. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

PASSED by the Board of County Commissioners of Shawnee County, Kansas, this 26th day of May, 1983.

BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS

Velma Paris
Velma Paris, Chairperson

Richard A. Maner
Richard A. Maner, Commissioner

Winifred L. Kingman
Winifred L. Kingman, Commissioner

Approved as to Legality
and Form: Date 25 May 83

[Signature]
Shawnee Co. Counselor

ATTEST:

Patsy A. McDonald
Patsy A. McDonald
County Clerk

(SEAL)

EXTRACT FROM MINUTES

The governing body of Shawnee County met in regular session at 9:00 a.m. May 26, 1983.

Present were Commissioners Velma Paris, Richard A. Maner and Winifred L. Kingman.

The following being absent: NONE.

Resolution No. 83-79 was introduced by Commissioner Richard A. Maner who moved its passage, which motion was seconded by Commissioner Velma Paris.

After a full discussion, the Chairman called for a vote on said motion, the vote being as follows:

AYES: 3

NAYS: 0

The Chairman then declared the motion duly carried.

CERTIFICATE

I, the undersigned, County Clerk of Shawnee County, Kansas, hereby certify that the above and foregoing is a true and correct copy of portions of the minutes of the meeting of the Governing Body held on May 26, 1983 as recorded on Page of Commission Journal No. T-1 of Shawnee County, Kansas.

WITNESS MY HAND and THE SEAL of Shawnee County, Kansas.

(SEAL)

Patsy A. McDonald
Patsy A. McDonald, County Clerk.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

January 31, 1984

ATTORNEY GENERAL OPINION NO. 84- 5

The Honorable Elwaine F. Pomeroy
State Senator, Eighteenth District
1415 Topeka Avenue
Topeka, Kansas 66612

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

County and County Officers--County Buildings--
Civic Centers in Certain Counties; Exercise of
Home Rule Power

Synopsis: Utilizing the authority granted by K.S.A. 1983 Supp. 19-15,139 et seq., Shawnee County may issue bonds for the construction or acquisition of "civic and other multi-use public facilities." The authority granted by the act is not limited to the construction or acquisition of a single facility and may be utilized for distinct and separate facilities if such facilities may be defined as civic or other multi-use public facilities.

A county may exempt itself by charter resolution from the particular issue limitations found in non-uniformly applicable statutes like K.S.A. 1983 Supp. 19-15,140 and may authorize the issuance of bonds in amounts greater than that authorized by the statute.

When relying upon home rule the county is subject to the aggregate debt limitations found in K.S.A. 10-306 and the county may not use a charter resolution to exempt from the aggregate debt limitations. The

exemption from aggregate debt limitations established in K.S.A. 1983 Supp. 19-15,141 is available to the county only when the county issues bonds under the authority of K.S.A. 1983 Supp. 19-15,140. Such an exemption is not available if the county chooses to issue bonds pursuant to a charter resolution enacted in the exercise of county home rule.

K.S.A. 1983 Supp. 19-15,139 et seq., is not legislation "concerning elections" within the meaning of K.S.A. 1983 Supp. 19-101a(a)(7), and is subject to the exercise of the powers of county home rule. Cited herein: K.S.A. 10-306 et seq., K.S.A. 1983 Supp. 19-101a; K.S.A. 19-101b, 19-101c, K.S.A. 1983 Supp. 19-15,139, 19-15,140, 19-15,141.

* * *

Dear Senator Pomeroy:

As State Senator for the Eighteenth District, and on behalf of several other members of the Shawnee County legislative delegation, you have requested an Attorney General Opinion on the legality of a charter resolution recently adopted by the Shawnee County Board of County Commissioners.

Shawnee County Charter Resolution No. CH-83-7 relies upon the authority granted to Shawnee County in K.S.A. 1983 Supp. 19-15,139 which provides in relevant part:

"The board of county commissioners of . . . Shawnee . . . count[y] may acquire by condemnation, gift, bequest, purchase or lease from public or private sources and may plan, construct, reconstruct, repair, remodel, furnish, equip, operate and maintain, and may lease to others for operation and maintenance, civic and other multi-use public facilities for the benefit of the people of the county. . . . The board may do all things incidental or necessary to establish public or private facilities, located upon, above or below the ground, for the types of functions and activities deemed suitable by the board." (Emphasis added.)

The charter resolution also utilizes county home rule powers as found in K.S.A. 1983 Supp. 19-101a and K.S.A. 19-101b to exempt the county from the requirements of K.S.A. 1983 Supp. 19-15,140 and 19-15,141, both of which relate to the exercise of the authority granted by 19-15,139.

K.S.A. 1983 Supp. 19-15,140 provides in portions relevant here:

"In order to carry out the authority granted in K.S.A. 19-15,139, and for no other purpose, the board of county commissioners of Shawnee . . . count[y] may issue general obligation bonds of the county in an amount not to exceed \$20,000,000. . . . No bonds shall be issued until the question of their issuance has been submitted to vote of the qualified electors of the county at any county general election, school board election or special election called and held for that purpose, and a majority of the qualified electors voting thereon votes in favor thereof. The election shall be called and held and the bonds shall be issued, sold, delivered, registered and retired in the manner provided by the general bond law."
(Emphasis added.)

Charter Resolution No. CH-83-7 also exempts Shawnee county from the application of K.S.A. 1983 Supp. 19-15,141 which provides:

"Bonds issued pursuant to K.S.A. 19-15,140 and amendments thereto shall not be subject to or within any bonded debt limitation fixed by any other law of this state."

In lieu of the requirements of K.S.A. 1983 Supp. 19-15,140 and 19-15,141, the charter resolution at issue here provides:

"Section 2. In order to carry out the authority granted in K.S.A. 19-15,139, as amended, and for no other purpose the Board is hereby authorized to issue general obligation bonds not to exceed \$6,000,000. The Board of County Commissioners shall publish a notice of intention to issue general obligation bonds. If, within fifteen (15) days after the publication of such notice in the official paper, there shall be filed

with the County Clerk written protest against the issuance of such bonds signed by not less than twenty percent (20%) of the qualified electors of such County, the Board of County Commissioners shall thereupon submit the proposed project and proposed bond issue to the electors of the County at a special election to be called for that purpose upon at least ten day's notice, to be held not later than sixty (60) days after the filing of such protest or at a general election which will occur not sooner than thirty (30) days nor not later than sixty (60) days after the filing of such protest. In the event that a majority of such voters voting on such proposition at such election shall vote in favor thereof, such proposed improvements shall be made and such bonds may be issued in payment of the cost thereof.

"Section 3. Bonds issued pursuant to K.S.A. 19-15,140, as amended, or charter resolutions in substitute therefor by Shawnee County shall not be subject to or within any bonded debt limitation fixed by any other law of this state."

We are informed that the bonds authorized by this resolution are to be used to build a race track and headquarters building for the Sports Car Club of America.

You raise three different questions concerning this resolution. First, you inquire whether the county may use the authority of K.S.A. 1983 Supp. 19-15,139 et seq., "more than one time either by adopting a charter resolution . . . or by following the statutory procedures a second time and placing the proposition of the issuance of more general obligation bonds before the voters?" You note that on April 5, 1983, Shawnee County voters approved a \$19.7 million bond issue in an election held under K.S.A. 19-15,140 for the construction of a civic center in Shawnee County. Second, you inquire whether the charter resolution exempts the county from statutorily prescribed bonded debt limitations in violation of K.S.A. 1983 Supp. 19-101a(a)(4). Similarly, you ask whether the charter resolution exempts the county from the election requirements of K.S.A. 1983 Supp. 19-15,140 in violation of K.S.A. 1983 Supp. 19-101a(a)(7).

Addressing your first inquiry, we note that K.S.A. 1983 Supp. 19-15,139 authorizes the county to build or acquire "civic and

other multi-use public facilities." Under the authority of K.S.A. 1983 Supp. 19-15,140, Shawnee County voters have approved the issuance of \$19.7 million in Shawnee County general obligation bonds for the construction of a civic center. We find no indication in the language of 19-15,139 that the authority of the section may be utilized only once for the construction of a single facility. The language "other multi-use public facilities", although perhaps not enacted in contemplation of an automobile race track facility, is certainly broad enough to encompass such a facility, if the track and attendant structures will be available and suitable for other uses. We note at this juncture that we have not been provided with an complete description of the proposed facility and its possible uses. Thus, our conclusion that the facility could be included within the description "multi-use public facility" is subject to the caveat that the facility must indeed be available to the public as a "multi-use" facility.

Your remaining questions concern the proper exercise of the home rule power of the county. A discussion of certain general matters relevant to the exercise of county home rule will provide a background for response to your inquiries. K.S.A. 1983 Supp. 19-101a sets forth the extent of and limitations upon the exercise of county home rule powers and provides in pertinent part:

"(a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions: (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties. . . . (4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness. . . . (7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers. . . ."

K.S.A. 19-101b provides in relevant part:

"(a) Any county may by charter resolution elect in the manner prescribed in this section that the whole or any part of any act of the legislature applying to such county other than those acts concerned with those limitations, restrictions or prohibitions set forth in subsection (a) of K.S.A. 19-101a shall not apply to such county.

other multi-use public facilities." Under the authority of K.S.A. 1983 Supp. 19-15,140, Shawnee County voters have approved the issuance of \$19.7 million in Shawnee County general obligation bonds for the construction of a civic center. We find no indication in the language of 19-15,139 that the authority of the section may be utilized only once for the construction of a single facility. The language "other multi-use public facilities", although perhaps not enacted in contemplation of an automobile race track facility, is certainly broad enough to encompass such a facility, if the track and attendant structures will be available and suitable for other uses. We note at this juncture that we have not been provided with a complete description of the proposed facility and its possible uses. Thus, our conclusion that the facility could be included within the description "multi-use public facility" is subject to the caveat that the facility must indeed be available to the public as a "multi-use" facility.

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"(a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions: (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties. . . . (4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness. . . . (7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers. . . ."

K.S.A. 19-101b provides in relevant part:

"(a) Any county may by charter resolution elect in the manner prescribed in this section that the whole or any part of any act of the legislature applying to such county other than those acts concerned with those limitations, restrictions or prohibitions set forth in subsection (a) of K.S.A. 19-101a shall not apply to such county.

prescribe statutory limits on indebtedness which may not be exceeded by cities, in order to provide some measure of protection against the insolvency of the cities. That protection, of course, is afforded by the aggregate limits on indebtedness, rather than those statutes which limit the amount of a particular bond issue, since the assumption of indebtedness under the latter statutes is still subject to the statutory limits on total indebtedness." (Emphasis added.)

It is our opinion that these conclusions apply with equal force to the fourth limitation on county home rule power stated in K.S.A. 1983 Supp. 19-101a. Thus a county may, by charter resolution, exempt the county from nonuniform statutory limitations upon the amounts of bond issues authorized for particular purposes.

Counties may not, however, use a charter resolution to exempt from the aggregate debt limitations established by K.S.A. 10-306 et seq. and which are applicable to counties. In Attorney General Opinion No. 82-186 the attorney general said:

"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."

This point raises two additional concerns about the validity of Shawnee County Charter Resolution No. CH-83-7. First, we are informed that Shawnee County utilized this charter resolution to finance this project because there was "insufficient authority between the county's existing outstanding bonded indebtedness and the limitation imposed by K.S.A. 10-306 for the proposed project" thus necessitating an "alternate means of financing the project." (See Letter of January 11, 1984 to the Shawnee County Commissioners from W. Edward Nichols) Second, we note that the charter resolution at issue here provides that bonds issued pursuant to the charter resolution, which substitutes for K.S.A. 19-15,140, "shall not be subject to or within any bonded debt limitation fixed by any other law of this state." Both points raise the question of whether the county may properly utilize the charter resolution in a manner which removes the proposed county bonds from the aggregate debt limitations provided in K.S.A. 10-306 et seq.

The statutes at issue here are distinguishable from the statutes discussed in previous Attorney General Opinions in that the

legislature, in enacting K.S.A. 1983 Supp. 19-15,141 exempted Shawnee County from any bonded debt limitation fixed by any other law of the state when issuing bonds pursuant to K.S.A. 1983 Supp. 19-15,140 for the purposes stated in the act. K.S.A. 1983 Supp. 19-15,140 limits the issuance of bonds under its provisions to \$20,000,000 and requires that the issuance be submitted to and approved by the voters. Shawnee County does not propose here to issue bonds under the authority of §19-15,140. Instead the County would issue bonds under its home rule authority as represented by a charter resolution which specifically exempts the County from §19-15,140 and enacts substitute provisions which increase the particular issue limitation found in that section and alter the election requirements. To preserve the exemption from aggregate debt limitations provided by the legislature for bonds issued under §19-15,140, the charter resolution removes the county from the effect of §19-15,141 (which creates the exemption) and then attempts to "re-enact" that section to include within the exemption bonds issued pursuant to the charter resolution enacted in lieu of §19-15,140. The effect of this resolution in this particular situation is to permit Shawnee County to issue bonds which exceed the aggregate debt limitation found in K.S.A. 10-306. It is our opinion that this is precisely the type of act which is precluded by the fourth limitation on county home rule power found in K.S.A. 1983 Supp. 19-101a(a).

We note here that earlier Attorney General Opinions which approved the exercise of home rule charter resolutions to exempt a municipality from a particular debt limitation accept as a basic premise that such exemptions will be made within the parameters of the applicable aggregate debt limits. See Attorney General Opinion Nos. 80-229; 76-44. Shawnee County Charter Resolution No. CH-83-7 goes beyond these parameters because it exempts bonds issued pursuant to and authorized entirely by a home rule charter resolution from the aggregate debt limitations created by state statute. This is beyond the scope of county home rule.

The exemption from aggregate debt limitations provided to Shawnee County by §19-15,141 is available only when the county complies with the requirements stated in §19-15,140. When the county elects to enact a charter resolution which removes the county from the effect of §19-15,140, the county loses the benefit of §19-15,141 and remains subject to aggregate debt limitations. K.S.A. 19-101a(a)(4) prevents a county from using home rule authority to exempt from the aggregate debt limitations found in K.S.A. 10-306. Shawnee County Charter Resolution No. CH-83-7 attempts to do exactly what is prohibited and thus, in our opinion, does not constitute a lawful exercise of county home rule.

K.S.A. 19-101b provides that any county may, by charter resolution elect that the "whole or any part of any act of the legislature applying to such county other than those acts concerned with those limitations, restrictions or prohibitions set forth in subsection (a) of K.S.A. 19-101a shall not apply to such county." When a county chooses to use the power of home rule it must act within the limitations of that power. In our opinion, K.S.A. 19-101b does not permit Shawnee County to pick and choose among various favorable and unfavorable legislative enactments, combine them with home rule authority and craft a charter resolution which accomplishes that which the county may not otherwise in the pure exercise of county home rule, *i.e.*, exempt the county from the aggregate debt limitations applicable to the county.

Finally, you inquire whether the Shawnee County Charter Resolution violates K.S.A. 1983 Supp. 19-101a(a)(7) which provides that counties shall be "subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers." The charter resolution provides for a protest style election. The seventh limitation on county home rule power significantly restricts county home rule power in providing that counties shall be subject to all acts of the legislature, whether uniform or not, concerning elections. Several recent Attorney General Opinions have concluded that this seventh limitation is intended to prevent action concerning the manner of how an election is to be held. See Attorney General Opinion Nos. 81-243; 79-47; 76-44. Thus, the issuance of bonds for "civic and other multi-use public facilities," which under statute requires an election, is not a matter pertaining to elections within the meaning of K.S.A. 1983 Supp. 19-101a(a)(7) as that section has been interpreted by the Attorney General. We do not construe K.S.A. 1983 Supp. 19-15,140 as legislation "concerning elections"; rather, the statute concerns the issuance of bonds for certain purposes which incidently requires a prior election. As such, the statute is subject to the legitimate exercise of county home rule. We note, however, that if the county chooses to operate under home rule the county remains subject to the aggregate debt limitations as discussed in this opinion.

We conclude that, utilizing the authority granted by K.S.A. 1983 Supp. 19-15,139 et seq., Shawnee County may issue bonds for the construction or acquisition of "civic and other multi-use public facilities." The authority granted by the act is not limited to the construction or acquisition of a single facility and may be utilized for distinct and separate facilities if such facilities may be defined as civic or other multi-use public facilities.

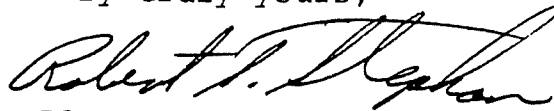
The Honorable Elwaine F. Pomeroy
Page Ten

A county may exempt itself by charter resolution from the particular issue limitations found in non-uniformly applicable statutes like K.S.A. 1983 Supp. 19-15,140 and may authorize the issuance of bonds in amounts greater than that authorized by the statute.

When relying upon home rule, a county is subject to the aggregate debt limitations found in K.S.A. 10-306 and the county may not use a charter resolution to exempt from the aggregate debt limitations. The exemption from aggregate debt limitations established in K.S.A. 1983 Supp. 19-15,141 is available to the county only when the county issues bonds under the authority of K.S.A. 1983 Supp. 19-15,140. Such an exemption is not available if the county chooses to issue bonds pursuant to a charter resolution enacted in the exercise of county home rule.

K.S.A. 1983 Supp. 19-15,139 et seq., is not legislation "concerning elections" within the meaning of K.S.A. 1983 Supp. 19-101a(a)(7). Thus the statute is subject to the exercise of the powers of county home rule.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Mary F. Carson
Assistant Attorney General

RTS:BJS:MFC:jm

MEMORANDUM

February 21, 1984

TO: House Local Government Chairman
FROM: Mike Heim, Kansas Legislative Research Department
RE: H.B. 2966

H.B. 2966 prohibits any municipality from making residency a condition of employment for fire department members.

(ATTACHMENT III)