

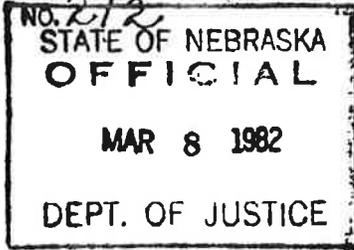
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682

STATE CAPITOL

LINCOLN, NEBRASKA 68509



March 5, 1982

PAUL L. DOUGLAS
Attorney General
GERALD S. VITAMVAS
Deputy Attorney General
JOHN R. THOMPSON
Deputy Attorney General

SUBJECT: Airport Authority
County Treasurer's Fee

REQUESTED BY: Avery L. Gurnsey
Rock County Attorney

OPINION BY: Paul L. Douglas, Attorney General
Mel Kammerlohr, Assistant Attorney General

QUESTION: Is the County Treasurer entitled to collect a fee on behalf of the county for services rendered in collecting taxes levied for the county airport authority in his or her county?

CONCLUSION: No.

Neb.Rev.Stat. §33-114 (Reissue 1978) provides in part: "Each county treasurer shall receive for and on behalf of the county for services rendered to other governmental subdivisions and agencies, where fees for services rendered by him are not otherwise specifically provided, the following fees" (Emphasis added).

County airport authorities are authorized by Neb.Rev. Stat. §§3-611 through 3-621 (Reissue 1977).

Under such provisions the county itself creates the airport authority. Although the authority is managed by an Airport Authority Board with full and exclusive jurisdiction and control over all facilities, the real estate is acquired in the name of the county and owned by the county.

Neb.Rev.Stat. §3-611 (Reissue 1977) provides in part: "Each such board (Airport Authority Board) shall be a body corporate and politic, constituting a public corporation and an agency of the county for which such board is established." (Emphasis added). Said section further provides that the board and its corporate existence shall continue only for a period of twenty years from the date of appointment and thereafter until its liabilities have been met and its bonds have been paid in full, at which time all rights and properties of the authority shall pass to and be vested in the county. The same is true as to leases made by the board.

Assistants:

Bernard L. Packett
Mel Kammerlohr
Harold I. Mosher
Ralph H. Gillan
Terry D. Coburn

Marilyn B. Hutchinson
Patrick T. O'Brien
J. Kirk Brown
Royce N. Harper
Lynne Rae Fritz

Ruth Anne E. Galter
John M. Boehm
G. Roderic Anderson
Dale A. Comer
Shanley D. Cronk

Martel J. Bundy
Mark D. Starr
Dale D. Brodkey
Frank J. Hutfless

Avery L. Gurnsey
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Neb.Rev.Stat. §3-613 (Reissue 1977) provides in part:

Any authority established under the provisions of sections 3-601 to 3-622 shall have power:

. . . .

(6) With the consent of the county, to use the services of agents, employees and facilities of the county, for which the authority may reimburse the county a proper proportion of the compensation or cost thereof, and also to use the services of the county attorney as legal advisor to the authority.

Neb.Rev.Stat. §3-615 (Reissue 1977) provides that officers and employees of any board or department of a county may be transferred to the airport authority, but shall continue to have any rights, privileges, obligations and status with respect to any county pension or retirement system to which they belong as county officers or employees.

In view of the foregoing provisions, it is our opinion that a county airport authority is established to manage the county's real estate for a specific use, and that the taxes collected for it are in reality collected for the county, even though they are specifically earmarked for the use of the airport authority; the use made is nevertheless a county function.

It is not services "rendered to other governmental subdivisions and agencies," within the meaning of §33-114, quoted in part above, which authorizes the county treasurer to collect a fee on behalf of the county. The treasurer would merely be taking from one fund of the county and placing it in another fund of the same county.

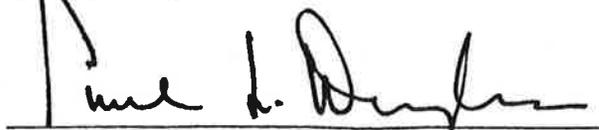
Very truly yours,

PAUL L. DOUGLAS
Attorney General



Mel Kammerlohr
Assistant Attorney General

MK:jmf
fl
APPROVED:


Attorney General