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#93048
 NO.
 STATE OF NEBRASKA
 OFFICIAL
 JUN 24 1993
 DEPT. OF JUSTICE

DATE: June 24, 1993
 SUBJECT: Expenditure of Economic Development Funds for Salaries
 REQUESTED BY: Senator George Coordsen
 WRITTEN BY: Don Stenberg, Attorney General
 Steve Grasz, Deputy Attorney General

You have requested the opinion of this office as to whether "the provisions of § 13-315 permit funds appropriated by a city or county to be expended for salaries of an economic development director employed by local economic development corporations." You have requested this opinion to determine whether amendments to the statute are necessary.

Nebraska law provides:

The city commissioners or council of any city, the board of trustees of any village, and the county board of any county in the state shall have the power to appropriate or expend annually from the general funds or from revenue received from any proprietary functions of their respective political subdivision an amount not to exceed four-tenths of one percent of the taxable valuation of the city, village, or county for the purpose of encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of acquiring from any source a municipal electrical distribution system or exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility

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services, of the city, village, or county. Such sum may be expended directly by the city, village, or county or may be paid to the chamber of commerce or other commercial organization or a similar county organization or multicounty organization or local development corporation to be expended for the purposes enumerated in this section under the direction of the board of directors of the organization. The total amount levied including the appropriation or expenditure made under this section shall not exceed the amount limited by law.

Neb. Rev. Stat. § 13-315 (Cum. Supp. 1992). The Nebraska Supreme Court has specifically upheld the constitutionality of the provisions found in § 13-315.

[W]e find that the provision authorizing expenditures "for the purpose of encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of acquiring from any source a municipal electrical distribution system, exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility services," is constitutional, including the provision for making such expenditures by and through chambers of commerce and the other organizations listed in the statutes.

Chase v. County of Douglas, 195 Neb. 838, 241 N.W.2d 334 (1976).

Thus, cities and counties are authorized to expend funds, within the specifications of § 13-315, for the purpose of (1) encouraging immigration, new industries, and investment and (2) to conduct and carry on a publicity campaign. The funds may be expended directly by the city or county of "may be paid to . . . [a] local development corporation to be expended for the purposes enumerated in this section. . . ." Therefore, we conclude the salary of an economic development director employed by a local economic development corporation may be funded pursuant to § 13-315 if such position is used for the purpose of encouraging immigration, new industries and investment or to conduct and carry on a publicity campaign.

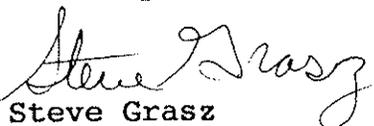
This conclusion is supported not only by the broad language of the statute, but also by the legislative history of § 13-315. When counties were brought under the provisions of the statute in 1969, one witness who supported the addition of counties testified, "Under the one mill levy provision for our city, we have a \$4 million assessed valuation; we could raise \$4,000 and for \$4,000

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you can't hire a good man, full time or even half time to promote the economy of your town." Committee Records on LB 684, 80th Neb. Leg., p. 5 (Febr. 13, 1969) (Statement of Hugh Wilkin). This testimony, in the context of the hearing, indicates an intent on the part of the Legislature to authorize the very expenditures in question.

Sincerely yours,

DON STENBERG
Attorney General


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Deputy Attorney General

Approved By:


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