Mr. Thomas D. Coleman, Director
Traffic Safety and Vehicle Inspection
319 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Coleman:

This is in reply to the request for my Official Opinion from your predecessor concerning this question:

"* * * as to whether or not the Acts of 1967, Chapter 317, Section 8(b), as amended, as found in Burns' (1969) Section 47-3408(b) exempting political subdivisions from fees, refers to each and every type of fee mentioned in the statute or whether political subdivisions are exempted from only certain types of such fees, and in the event that they are intended to be exempt from only certain fees whether they are thereby authorized to disburse municipal funds for payment of such non-exempt fees?"

ANALYSIS

Subparagraph (a) of the section to which you refer provides for the licensing of privately-owned establishments as official inspection stations. Subparagraph (b) reads as follows:

"The administrator may, upon application, designate the state of Indiana, any political subdivision thereof, or any person, firm or corporation as a self inspector provided such applicant meets the requirements established for privately-owned official inspection stations as to equipment, space and personnel and provided said applicant owns or operates a minimum of ten (10) motor vehicles, and can satisfy the administrator that such inspections will be properly conducted. Self inspectors shall be subject to all provisions of this act [§§ 47-3401—47-3413] and rules and regulations adopted pursuant thereto that apply to privately-owned inspection stations except that the state of Indiana and
its political subdivisions shall not be subject to section 11 [§§ 47-3411] concerning fees.” (My emphasis)

A careful examination of the statute and applicable principles of construction requires the conclusion that where it applies the exemption applies to all the fees mentioned in said Section 11. However, the exemption applies to the state or a political subdivision only if it becomes a self-inspector.

A statutory exception is considered as a limitation only upon the matter which precedes it, unless there is clear legislative intent that it is a limitation on the entire act. Sutherland, Statutory Construction, 3rd Ed., Vol. 2, Sec. 4936, p. 474; 82 C. J. S. Statutes, § 382 (1969 Supp.).

Because the normal legislative procedure is to draft an exception as an individual section, Sutherland, supra, the inclusion of the modifying clause as merely a part of a sentence in a subsection dealing with the primary subject of self inspectors indicates that the exception pertains only to the case of self inspectors rather than to the entire act.

The statute does not permit a construction that a self inspector may inspect vehicles other than its own, or that a privately-owned official inspection station must inspect free of charge. The consequence of such exception is that a political subdivision that can not qualify as a self inspector because it owns or operates less than ten motor vehicles does not have the election whereby it could become exempt from said fees.

In regard to the latter part of your question, it is my opinion that as all vehicles subject to inspection of the state of Indiana and its political subdivisions are required to be inspected as provided by the statute (1968 O. A. G. No. 15), a political entity that does not elect to become a self inspector may, and one that can not become a self inspector must, expend municipal funds for the inspection and certification fees prescribed by the statute. Since one result to be achieved by the vehicle inspection law is better upkeep of vehicles subject to inspection, such fees appear to be a proper charge against the funds appropriated for the maintenance of the vehicle inspected.
CONCLUSION

It is, therefore, my opinion that a political subdivision of government which qualifies as a self inspection station is exempt from all fees in Burns' 47-3411, Section 11 because it does its own vehicle inspections. But where a political subdivision of government does not qualify to inspect its own vehicles, it must obviously have said inspections performed at privately-owned official inspection stations, and it can lawfully pay the regular inspection fees.