

BONDS: A sewer district organized by a county
SEWERS: court of a third class county under the
COUNTIES: provisions of Sections 249.430 to 249.660,
COUNTY COURT: RSMo, has authority to issue revenue bonds
REVENUE BONDS: under the provisions of Chapter 250, RSMo.

OPINION NO. 350

November 18, 1974

Honorable Gene Hilton
Prosecuting Attorney
Camden County Courthouse
Camdenton, Missouri 65020



Dear Mr. Hilton:

This opinion is in response to your question asking:

"Does a sewer district, organized in a county of the third class under Chapter 249, RSMo, have authority to issue revenue bonds under the provisions of Chapter 250, RSMo, specifically under Sections 250.010, 250.050, 250.070 and 250.080?"

You further state that:

"Section 250.010 provides that 'any sewer district organized under Chapter 249, RSMo,' is authorized to construct a sewerage system and to finance the system as further provided in Chapter 250. This provision seems to confer on any sewer district organized under Chapter 249 the powers subsequently set out in Chapter 250. Section 250.050 provides that the cost to 'any such sewer district' of constructing a sewerage system may be met from the proceeds of revenue bonds of such sewer district.

"A question arises, however, from certain language in Sections 250.070 and 250.080 referring to actions to be taken by 'the board of trustees of the district' in carrying out the procedures relating to the authorization and the issuance of bonds.

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"Section 250.070 (3.) provides as follows:

In sewer districts any such election shall be called, conducted and the result thereof declared by the board of trustees of the district.... [emphasis added].

"Section 250.080 (1.) provides as follows:

Revenue bonds authorized at an election as hereinabove provided shall be issued by authority... of a resolution adopted by the board of trustees of any such district.... [emphasis added].

"The only sewer districts for which Chapter 249 provides that a board of trustees shall be the governing body are those sewer districts in St. Louis County. Sewer districts in third class counties do not have a board of trustees. Rather, Chapter 249 provides for sewer districts in third class counties to be governed by the County Court.

"Thus, the question arises: Does the above language in Sections 250.070 and 250.080 limit the power to issue revenue bonds to only those sewer districts which have a board of trustees, i.e., those in St. Louis County, or does Section 250.010 granting authority to 'any sewer district organized under chapter 249, RSMo,' control, such that any later reference in Chapter 250 to 'board of trustees' is merely intended to refer to the governing body in a general sense, and is not meant to be a limitation on which sewer districts can issue bonds?"

The provisions of Chapter 250, RSMo, to which you refer, were enacted in 1951, H.S.H.B. No. 45, 66th General Assembly. The title to such act states:

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"AN ACT relating to the acquisition, construction, extension or improvement of sewerage systems by cities, towns and villages whether organized under the general law or by special charter or constitutional charter, or by sewer districts organized under Chapter 249, RSMo 1949, as that chapter now exists or may be amended: to the combination by such cities, towns, villages or sewer districts of existing sewerage systems or sewerage systems to be acquired or constructed, with existing waterworks or with waterworks to be acquired or constructed: and to the improvement and extension of such combined systems: and to issuing revenue bonds and providing means for the payment of the acquisition, construction, improvement or extension of any such sewerage system or combined sewerage and waterworks system."

Accordingly, Section 250.010, RSMo, applies expressly to ". . . any sewer district organized under chapter 249, RSMo, as that chapter now exists, or as it may be amended, . . ." and authorizes such districts "to provide funds . . . as hereinafter provided."

Section 250.050, RSMo, provides in part that:

"The cost to any such sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

* * *

(4) From the proceeds of revenue bonds of such sewer district, payable solely from the revenues to be derived from the operation of such sewerage system . . ."

Section 250.060, RSMo, refers to "the board of trustees of the district" with respect to elections concerning the issuance of bonds payable from taxes. Section 250.070, RSMo, as you noted, refers to "the board of trustees of the district" with respect to elections concerning revenue bonds. Section 250.080, RSMo, as you noted, refers to the resolution required of the "board of trustees of the

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district" with respect to revenue bonds authorized at an election and also provides that any such bonds shall be sold in such manner as the "board of trustees of such sewer district shall determine" as therein provided. Other provisions of Chapter 250 deal in more general terms referring to "sewer district" (Sections 250.090, 250.110, 250.120, 250.130, 250.140, 250.150, 250.160, 250.170, 250.180, 250.190, 250.200, 250.210, and 250.240) although some reference is made to "sewerage district" (Section 250.180). In some of the provisions, the governing body is referred to as "proper officials" (Section 250.150) or "officials" (Section 250.170) or "governing authority" (Section 250.180) or "governing body" (Section 250.160(7)). Admittedly, however, the broader terms are used in conjunction with references to "city, town or village" as well as "sewer district."

In addition, we note that Section 250.240, RSMo, respecting the purpose of the act provides:

"It is the purpose of this chapter to enable cities, towns and villages and sewer districts to protect the public health and welfare by preventing or abating the pollution of water and creating means for supplying wholesome water, and to these ends every such municipality and sewer district shall have the power to do all things necessary or convenient to carry out such purpose, in addition to the powers conferred in this chapter. This chapter is remedial in nature and the powers hereby granted shall be liberally construed."

If, in fact, the legislature had intended to vest the power to issue revenue bonds in only St. Louis County, which, as you noted, is the only such district that has a board of trustees, it would have been a simple thing to clearly so provide. It is our view from a full reading of these acts, including the title which we have quoted and which should be given some effect, that the legislature intended that the authority to issue such revenue bonds not be limited to a sewer district having a board of trustees but include sewer districts created by county courts under the provisions of Sections 249.430 to 249.660, RSMo. Thus, in our view, the aforementioned terminology "board of trustees" was in fact intended by the legislature to apply to the county court in such districts.

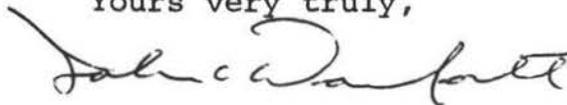
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CONCLUSION

It is the opinion of this office that a sewer district organized by a county court of a third class county under the provisions of Sections 249.430 to 249.660, RSMo, has authority to issue revenue bonds under the provisions of Chapter 250, RSMo.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General