

COUNTY COURTS: May pledge warrants to corporations authorized to accept pledge of same.

January 3, 1940



Honorable L. Cunningham, Jr.
Prosecuting Attorney
Camden County
Camdenton, Missouri

Dear Sir:

We are in receipt of your request for an opinion dated December 5, 1939, as follows:

"The County Court of Camden County has requested that I obtain an opinion from you relative to the following matters.

Camden County, Missouri, has some \$10,000.00 or \$12,000.00 of outstanding warrants for the years 1933, 1934, 1935 and 1937, the uncollected delinquent taxes for those years are more than \$20,000.00. The County Court is desirous of issuing bonds to fund that indebtedness, however, it is probable that an election upon such a matter would not meet with the approval of two-thirds of the voters of the County, however, the Presiding Judge informed me that at the time of the building of the bridge across the Lake of the Ozarks he was in the office of a St. Louis Bond Attorney Firm and that they told him at that time that the County Courts of Missouri Counties could issue bonds to fund debts without submitting the matter to the people at an election. I have been unable to find any law authorizing such a procedure, however, I would appreciate your opinion as to that matter.

The Laws of Missouri for 1933 at page 358, Section 12184 A provide for the pooling of outstanding warrants and that they may

be by the county pledged to certain agencies, corporations, etc. The county would like to have an opinion as to what use they could make of that section of the law when applied to the facts set forth in the preceding paragraph, also just what is meant by agencies, corporations, etc., as it is mentioned in the section."

The question raised in your second paragraph above, we believe was answered by our letter of December 8, 1939, enclosing an opinion formerly rendered by this department, holding that while a refunding issue of bonds might be made without a vote of the people, the bonds could be issued in the first instance only with approval of the voters of the county.

Your second question relates to Section 12184a, found at page 358, Laws of Missouri, 1933, and is as follows:

"County Warrants issued under the authority of Article 8, Chapter 85, of the Revised Statutes of the State of Missouri, 1929, issued to pay any legal indebtedness of a county may be pooled by the holders thereof and assigned to such county and be pledged by the county court to any corporation, commission or agency created or authorized by Congress or the State of Missouri to accept a pledge of such Warrants and the county court is authorized to pledge the Warrants of any county issued under this article in a manner to conform to the requirements, rules and/or regulations of any such corporation, commission or agency. Upon a pledge of any such warrants as by this act authorized, funds available or to be available shall be segregated and set apart for the redemption of such warrants and interest thereon from the terms of such pledge in the same manner as if said warrants had been sold, and the lien of such pledged warrants and interest thereon shall be enforced in the same manner as provided in

this article for warrants sold. Funds derived from a pledge of any such warrants shall be deposited, accounted for and paid to parties so pooling them in the same manner as if such warrants had been sold or as may be provided by the requirements, rules and/or regulations of the corporation, commission or agency accepting a pledge of such warrants and advancing funds thereon."

A search fails to reveal that this particular section has ever been interpreted by our courts. We will outline, therefore, what appears to us to be the necessary steps for a compliance with the foregoing section.

1. The outstanding warrants which are to be pledged must be assigned to the county. There should be a written contract setting out this assignment and enumerating the warrants involved.
2. The county court and the corporation or agency to whom the warrants are pledged should enter into a written agreement setting out the terms and conditions of the pledge.
3. The funds derived from the pledge should be paid the original holders in accordance with their agreement and a receipt taken therefor.
4. All funds received by the court, which should be applied to the retirement of the original warrants, must be set up in a separate fund for the benefit of the pledgee, the delinquent taxes for each year being segregated so that they may be applied to the warrants outstanding for that particular year. These funds must not be used in any other manner by the county court until the loan is repaid in full.

You made inquiry as to the meaning of the words "agency", "commission" and corporation", as used in the above quoted section. At the time this legislation was passed, the legislature probably had in mind the Reconstruction Finance Corporation, which was then authorized to make loans or advances to counties and other quasi public entities. Those permitted to accept a pledge of outstanding warrants must be authorized by Congress or the State of Missouri to enter into such contract. We believe this privilege would extend to any agency or corporation in Missouri which was not specifically prohibited from exercising this right, provided it had the power to make loans by its charters.

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It is our conclusion, therefore, that any corporation or agency which may lawfully lend money in the State of Missouri may accept a pledge of outstanding county warrants where not prohibited by law, and that any corporation or agency created by Congress for that purpose, or duly authorized by it, may accept a pledge of past due county warrants under the conditions above outlined.

Respectfully submitted,

ROBERT L. HYDER
Assistant Attorney General

APPROVED:

W. J. BURKE
(Acting) Attorney General

RLH:VC