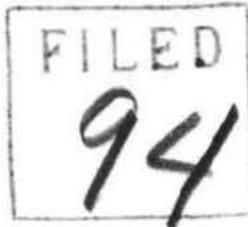


BONDS:) (1) Water-Sewer Revenue Bonds authorized by House
SEWER BONDS:) Bill No. 45, 1951, need not be offered for public
ELECTIONS:) sale; (2) and need only a four-seventh vote.



October 31, 1952

11-18-52

Mr. C. E. Watkins
I.O.O.F. Building
Memphis, Missouri

Dear Sir:

This is in reply to your request for an opinion,
which is as follows:

"Yesterday we had an election to vote for a swimming pool, it was defeated. At the same time we voted for Water-Sewer Revenue Bonds, attached is an explanation. This water-sewer proposition carried by a small majority, it is something that we really need.

"Please advise me if it is necessary to advertise these bonds for sale to the highest bidder, the same as is required where the bonds are retired by taxation. A few years ago we voted a bond levy of \$87,500.00-2%, a certain percent of it maturing every year. These bonds were sold and never offered for sale publicly. It is my opinion that the Revenue Bonds that I refer to should be advertised for sale. I, personally, would appreciate your opinion in the matter. Also I am of the opinion that Revenue bonds of this nature (they not being a levy on real estate) do not require a two-thirds majority. Am I correct or not?"

The legislation authorizing the issuance of water-sewer bonds was enacted by the Sixty-sixth General Assembly

Mr. C. E. Watkins

by House Bill No. 45. In addition to the several sections providing for the authorization and issuance of the said bonds, the Legislature included a section giving the legislative intent as to the construction of the law by Section 250.250, RSMo Cum. Supp. 1951, (H.B. 45, Section 24) which is as follows:

"This chapter shall be construed as a cumulative and additional grant of power to cities, towns and villages and shall not be construed to repeal or modify any other act or statute nor shall it be construed to repeal or modify any power granted by the constitution or statutes of the state of Missouri or by any special charter or constitutional charter. This chapter, without reference to any other chapter, shall be deemed sufficient authority for the exercise of any powers granted herein, and all powers necessary to effectuate the purposes of this chapter shall be deemed to be granted hereby."

Section 250.080(6), RSMo Cum. Supp. 1951, provides for the method by which the sale of the bonds is to be conducted and is as follows:

"Any such bonds shall be sold in such manner and upon such terms as the governing authority of the said town, city or village or the board of trustees of such sewer district shall determine, but such bonds shall not be sold for less than ninety cents on the dollar nor shall they be sold at such a price that the interest cost upon the actual proceeds of such bonds from the date thereof to their maturity shall exceed six per cent per annum. Such ordinance or resolution may provide that certain bonds authorized thereby shall be junior or subordinate in any or all respects to other revenue bonds authorized concurrently therewith or prior to or after such bonds."

Mr. C. E. Watkins

Since the above-quoted section gives the governing authority of the subdivision issuing the bonds full authority to determine the manner and terms of the sale of the bonds, we believe that that section is applicable to this sale, and that since there is no provision in House Bill No. 45 for advertising the bonds there is no necessity for such an advertisement.

You further ask if revenue bonds of this nature require a two-thirds majority. Section 250.070(1), RSMo 1949, Cum. Supp. 1951, provides that the proposition put before the voters to issue such bonds shall require the assent of four-sevenths of the qualified voters of the city, town or village or sewer district who shall vote on the proposition. Since a four-sevenths vote is provided for by statute, a two-thirds majority is not necessary. This provision for a four-sevenths vote is also contained in Article VI, Section 27 of the Missouri Constitution of 1945.

CONCLUSION

Therefore, it is the opinion of this department that (1) water-sewer bonds need not be sold at a public sale but shall be sold in such manner and upon such terms as the governing authority shall determine, and (2) the proposition need only receive the assent of four-sevenths of the qualified voters of the subdivision proposing to issue the bonds.

Respectfully submitted,

JOHN R. BATY
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JRB/fwh