

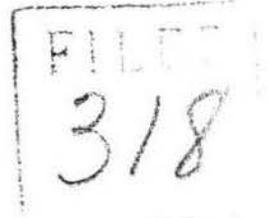
DIVISION OF COMMERCE & INDUSTRIAL
DEVELOPMENT:
INDUSTRIAL DEVELOPMENT:
MUNICIPAL CORPORATION:

The cities of Clarksville, Bowling
Green and Louisiana may cooperate
with each other on industrial
development projects.

December 24, 1963

Opinion No. 318

Mr. Lawrence A. Schneider
Director, Division of Commerce
and Industrial Development
Eighth Floor, Jefferson Building
Jefferson City, Missouri



Dear Mr. Schneider:

In your letter of July 20, 1963, you request an opinion
from this office in the following language:

"John A. Croll, Area Community Develop-
ment Agent, representing communities of
Marion, Monroe, Pike and Ralls Counties,
has posed the following question: Can
two or more municipalities participate
cooperatively in a municipally financed
industrial project?"

"The cities of Clarksville, Bowling Green,
and Louisiana are currently interested in
the possibility of jointly financing a
manufacturing plant through municipal bonds.

"I think you should assume the opinion to
be rendered after S. B. #289 has become
effective.

"If you could also state what limitations
and procedures there are, it would be most
helpful."

Constitutional authority for cooperation between
municipalities and political subdivisions of this State is
found in Article VI, Section 16, Constitution of Missouri,
which reads as follows:

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"Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law."

Statutory authority for cooperation between municipalities is found in Section 70.220, RSMo 1959, as follows:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides." (Emphasis supplied.)

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It should be noted that under Section 70.220, supra, municipalities and political subdivisions may contract and cooperate with other municipalities or political subdivisions when the subject or purposes of such contract are "within the scope of the powers of such municipality or political subdivision". Therefore, we must determine whether the proposed project as mentioned in your letter comes within the scope of the powers and authorities granted to the municipalities mentioned herein.

Article VI, Section 23a, Constitution of Missouri, as adopted November 8, 1960, provides in part that any incorporated city, town or village within any county having a population of less than 400,000 population by a vote of two-thirds of the voters may become indebted for and may purchase, construct, extend or improve plants for manufacturing and industrial development purposes under the conditions as provided therein. It also exempts cities from some other constitutional provisions concerning the limits of bonded indebtedness of the city. This constitutional provision is often referred to as the general revenue bond provision for industrial development purposes.

In State ex rel. City of Charleston vs. Holman, 355 SW2d 946, the Supreme Court held this constitutional provision was not self enforcing and therefore required action by the Legislature before it became legally effective.

Under Article VI, Section 27 of the Constitution of Missouri adopted November 8, 1960, it is provided any city or incorporated town or village by a vote of four-sevenths of the voters may issue revenue bonds for the purpose of purchasing, constructing, extending or improving plants for manufacturing and industrial development purposes, the bonds to be paid solely from revenues derived from the operation of such plant or facility. This constitutional provision is often referred to as the revenue bond provision for industrial development purposes.

In Petition of Monroe City, 359 SW2d 706, the Supreme Court held Section 27 of Article VI was not self enforcing and therefore requires statutory legislation to put it into effect. Therefore, we must look to statutory authority authorizing cities to cooperate on a project for industrial development purposes.

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Statutory authority for the purchase, construction, maintenance and operation of industrial development projects is found in Sections 71.790 to 71.850, RSMo Cum. Supp. 1961. These statutory provisions provide for the procedure to be followed by municipalities that desire to avail themselves of the provisions of the constitution providing for industrial development projects.

Senate Bill No. 289 enacted by the 72nd General Assembly repealed Section 71.790, RSMo Cum. Supp. 1961, and enacted a new Section 71.790, VAMS, Sept. 1963, page 22, with this amended provision:

"71.790. Definitions

"As used in sections 71.790 to 71.850, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

* * * * *

"(5) 'Project for industrial development' or 'project', the purchase, construction, extension and improvement of industrial plants, including the real estate either within or without the limits of such municipalities, buildings, fixtures, and machinery; except that any project of a municipality having fewer than eight hundred inhabitants shall be located wholly within the limits of the municipality."

Courts will take judicial knowledge of the fact that the population of the city of Bowling Green, Missouri, is 2,650, the population of Louisiana, Missouri, is 4,286 and the city of Clarksville, Missouri, has a population of 638 according to the 1960 Census.

CONCLUSION

It is the opinion of this office that the cities of Bowling Green, Louisiana and Clarksville, Missouri, may cooperate with each other in the purchase, construction,

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extension and improvement of industrial plants as provided in Sections 27 and 23a of Article VI of the Constitution of Missouri when the project or plant is within the corporate limits of Clarksville, and that the cities of Louisiana and Bowling Green may cooperate with each other for such purpose when the plant or project is located either within or outside the corporate limits of either of such cities.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, A. Moody Mansur.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

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