

DRAINAGE DISTRICTS:  
WARRANTS:

Warrants issued by a Circuit Court Drainage District organized under Chapter 242, RSMo 1959, are valid if provisions thereof are met.

March 21, 1966

OPINION NO. 90

Honorable William Fickle  
Member, House of Representatives  
Platte County  
7406 Tomahawk Road  
Parkville, Missouri



Dear Representative Fickle:

This is in response to your request for an official opinion of this office respecting the power of Circuit Court organized Drainage Districts, which reads in part as follows:

"The Board proposes to issue warrants for the completion of the work on the Plan of Reclamation and the local bank has agreed to pay them and accept an assignment of the same, however, it has raised the question of the validity of the warrants issued when the District is without sufficient funds, in view of Section 246.070 through 246.130, Revised Statutes of Missouri 1959, which provides for the issuance of tax anticipation warrants.

"It would appear that Section 242.630 is still the law and that it was not impliedly repealed by Section 246.070 through 246.130 \* \* \*"

The Farley-Beverly Drainage District is a circuit court drainage district organized in 1953, pursuant to the appropriate statutory provisions set out in Chapter 242. (All statutory references are RSMo 1959). We understand that it has become necessary to obtain money to fulfill the purposes for which the district was organized and a question has arisen as to the validity of warrants issued by the district in conformance with the appropriate statutory provisions of Chapter 242. Section 242.210 provides the form of

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such warrants and Section 242.630 provides the interest rate should the warrants be not paid. The problem arises as to the validity of warrants issued under Chapter 242 in the light of Chapter 246 which sets out one manner and procedure for the issuance of tax anticipation warrants by drainage districts which may be contended to be somewhat in conflict with Chapter 242.

The Supreme Court of Missouri in *Graves v. Little Tarkio Drainage District No. 1*, 134 SW 2d 70, 80, considered the problem of the possible conflict between what are now Chapters 242 and 246. The Supreme Court in that case ruled that the provisions of Chapter 242, germane to the issuance of warrants were not impliedly repealed by Chapter 246. In ruling that Chapter 246 does not indicate a legislative intention that such statutes would thereafter provide the exclusive method of issuance of warrants the Court states:

"[24] Respondents finally contend that the provisions of article 10, c. 64, sec. 11024 et seq., R.S. 1929, Mo.St. Ann. §11024 et seq., p. 3663 et seq., provide an exclusive method by which indebtedness may be incurred and tax anticipation warrants may be issued, and that said sections were not complied with. (These sections are presently located in Chapter 246 RSMo 1959). These sections were passed in 1929 (Laws 1929, p. 190, §§ 1-7) and limit in amount and in time of maturity warrants which may be issued thereunder and expressly require the assent of the owners of  $\frac{2}{3}$  the acreage of the district. A review of said new sections discloses that they cover some rights previously enjoyed by districts and add other new and different rights, but there is nothing to indicate an intention that said sections should thereafter provide the exclusive method for issuance of warrants by drainage districts. Said sections gave new and additional powers but did not necessarily take away rights then possessed by the district. Districts had the power to issue warrants for indebtedness, Sec. 10775, R.S. 1929, Mo.St. Ann. § 10775, p. 3503, but did not have the power to sell warrants in order to buy machinery, drag lines and equipment and then to pay the said warrants out of the maintenance fund. \* \* \*"  
Loc. cit. p. 80. (Emphasis Ours)

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Section 10775 RS 1929 referred to in the Graves case above is now Section 242.630, RSMo 1959.

The Court also stated that all terms and provisions of the Drainage Act would be construed broadly and liberally to effectuate the uniform and beneficial motives which prompted its enactment.

CONCLUSION

It is therefore the opinion of this office that warrants issued by a Circuit Court Drainage District organized under Chapter 242, RSMo 1959, are valid if the requirements in Chapter 242 are met.

Yours very truly,

  
NORMAN H. ANDERSON  
Attorney General