

POLITICAL SUBDIVISION: A public water supply district under
PUBLIC WATER SUPPLY DISTRICT: Chapter 247, RSMo 1959, may employ
ASSESSED VALUATION: the pension plan under Section 67.200,
PENSION PLAN FOR EMPLOYEES: RSMo Cum. Supp. 1967, if its assessed
valuation is \$40,000,000 or more.

OPINION NO. 279

August 22, 1968

Honorable Donald L. Manford
State Representative, 18th District
9409 Oakland Avenue
Kansas City, Missouri 64138



Dear Representative Manford:

This is in answer to your opinion request to us regarding Section 67.200, RSMo Cum. Supp. 1967 (S.B. 14 and 30, 74th General Assembly), in which you stated:

"As I understand the considerations, the Board of Directors of Jackson County Public Water Supply District No. 1 is making inquiry relative to the establishment of the pension system as authorized under Senate Bills No. 14 and No. 30 considered by the 74th General Assembly in the year 1967. Will you please advise as to whether the present status of the Jackson County Public Water Supply District No. 1 is eligible for a pension plan under the existing Missouri Statutes.

There seems to be concern as to whether the present general obligation bonds of the water district are to be considered in determination of the district's qualification as to total assessed valuation when weighed together with the other assessed valuation of the area. And finally, what effect would result if the political subdivision's assessed valuation fell below the qualifying amount of \$40,000,000. This last factor is mentioned, of course, because of the anticipated fluctuation of the assessed valuation within the political subdivision from year to year."

Section 67.200 reads:

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"1. Any political corporation or subdivision of this state, now having or which may hereafter have an assessed valuation of forty million dollars or more, except counties of the second class having a population in excess of sixty-five thousand, which adjoins a county of the first class with a charter form of government, which does not now have a pension system for its officers and employees adopted pursuant to state law, may provide by proper legislative action of its governing body for the pensioning of its officers and employees and the widows and minor children of deceased officers and employees and to appropriate and utilize its revenues and other available funds for such purposes.

2. In adopting a pension plan such counties, other political corporations or political subdivisions may provide for different benefits and requirements for elected officers and appointed officers and employees."

Provisions relating to water supply districts are found in Chapter 247, RSMo 1959. There is no question but that such a district is a political subdivision (Constitution of Missouri, Article X, Section 15; Attorney General Opinion No. 109, rendered to Honorable Don R. Ferry, April 25, 1967, enclosed herein); the district will be eligible to utilize the new employee pension statute if its "assessed valuation" is forty million dollars or more.

Under Section 247.450, RSMo 1959, a public water supply district can levy and collect ad valorem taxes on "all taxable tangible property" in the district, as shown by the "last completed assessment". Section 247.460.

We are advised that before 1961, the then larger district voted general obligation bonds payment of a portion of which was assumed by Kansas City in annexation proceedings under the statutes. It is our understanding that the lawyer for the district contends that under the provisions of Section 247.130, RSMo, all of the taxable tangible property in the territory of the district as it existed prior to the change in district boundaries by annexation of part of the territory to Kansas City would be liable to a

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tax levy to pay for bonds issued by the district as it existed prior to such annexation, if Kansas City should default on payment of the bonds such city agreed to pay as part of the settlement between the district and the city.

We deem it unnecessary to determine whether this contention is correct or whether taxable tangible property in the territory annexed to Kansas City which was formerly a part of the water district would be liable only if Kansas City does default on the bonds it agreed to pay and if the district as it presently exists could not raise sufficient tax monies to pay for such bonds, because it is clear there is only one Jackson County Public Water Supply District No. 1 in existence at present with definite boundaries.

The fact that taxable tangible property not in a water supply district might be subject to a tax to make payment on bonds if a contingency occurs does not affect the fact that the property which might be subject to a tax levy to pay bonds upon the occurrence of the contingency is not within the district, and is not considered in determining the assessed valuation of such district. We have examined the decree in Case No. 83533, Circuit Court of Jackson County, Missouri, entered July 28, 1961, and find that while a portion of the total bond obligation of the formerly larger district was assumed by the city when some of the district's area was annexed, that nevertheless the decree makes it clear (page 7) that "all of the territory of the district which has been included by annexation within the corporate limits of the city, effective January 1, 1961, and January 1, 1963 . . . is hereby detached and excluded from the district". Therefore, regardless of the fact that some of the original district's territory which is now in the city water system might on the happening of a contingency be responsible for past bond obligations, the fact remains that the 1967 Act contemplates qualification of a political subdivision depending upon the valuation of taxable tangible property within the district; and the district at all times since enactment of Section 67.200 has had the geographical boundaries which existed subsequent to the 1961 de-annexation.

CONCLUSION

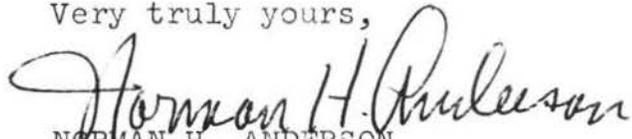
It is therefore the opinion of this office that a public water supply district organized under Chapter 247, RSMo 1959, is eligible to utilize the employee pension plan provisions of Section 67.200, RSMo Cum. Supp. 1967, only if the district's

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assessed valuation of taxable tangible property in the district is \$40,000,000 or more.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, William L. Culver.

Very truly yours,


NORMAN H. ANDERSON
Attorney General

Enc.--Op. No. 109; 4/25/67; Ferry