

June 22, 1971

OPINION LETTER NO. 344
Answered by Klaffenbach

Honorable Ronald M. Belt
Missouri House of Representatives
203 E Capitol Building
Jefferson City, Missouri 65101



Dear Representative Belt:

This letter is in answer to your questions concerning water supply districts stated as follows:

"1. Does 'cities' in that statute [Section 247.030] include third class cities and fourth class cities?

"2. Would 247.030 prohibit an established water supply district from first, purchasing an existing city's waterworks system and second, then include that city within its boundaries?"

We are enclosing our Opinion No. 270, dated May 19, 1971, to the Honorable Robert H. Martin, concerning cooperative agreements between such districts and cities which relates to, but does not dispose of your questions.

Section 247.030, RSMo 1969, provides:

"Territory that may be included in a district sought to be incorporated may be wholly within one or in more than one county, may take in school districts or parts thereof, and cities that do not have a waterworks system. The territory however, shall be contiguous, and proceedings to incorporate shall be in the circuit court of the county in which the largest acreage is located. No two districts shall overlap."

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That section does not limit the classification of cities within the exception and therefore we conclude that all cities, including third and fourth class cities, having a waterworks system are excluded from the district. A recent case in which the exception was noted with respect to a fourth class city is Public Water Supply Dist. No. 7 v. City of Pevely, 437 S.W.2d 108 (St. Louis App. 1969).

In answer to your second question, it is our view that the powers given the districts under Section 247.050, RSMo 1969, are sufficiently broad to authorize the district to acquire the waterworks system of such a city. It is then possible for such a city to be included in the enlarged or extended boundaries of the district under the provisions of Section 247.040, RSMo 1969.

We wish to point out that we are not passing upon the authority of any city to sell its waterworks system as various particular statutory limitations and requirements such as those contained in Sections 91.290, 91.320 and 91.550, RSMo 1969, or elsewhere may be involved in any such determination.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 270
5/19/71, Martin