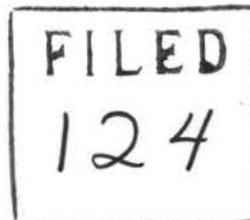


COUNTIES: (1) Soil and water conservation dis-
SOIL DISTRICTS: tricts, organized under the provisions
CONSTITUTIONAL LAW: of Chapter 278, RSMo, are not private
SOIL & WATER CONSERVATION: corporations, but are public, politi-
cal subdivisions of the state, and (2)
Section 278.145, RSMo 1969, providing for aid to soil and water con-
servation districts from cities and counties, does not violate Article
VI, Section 25, Missouri Constitution.

OPINION NO. 124

June 10, 1975

Mr. James L. Wilson, Director
Department of Natural Resources
Post Office Box 176
Jefferson City, Missouri 65101



Dear Mr. Wilson:

This is in response to your request for an opinion of this of-
fice on the following questions:

- "1. Is a soil and water conservation dis-
trict, organized under the provisions
of Chapter 278, RSMo., a private asso-
ciation or corporation, which is re-
ferred to in Article VI, Section 25 of
the Missouri Constitution?
- "2. Does Section 278.145 violate Article VI,
Section 25 of the Missouri Constitution?"

Chapter 278, RSMo 1969, is entitled "Soil Conservation," Sec-
tion 278.145 states:

"The county court of any county or the gov-
erning body of any city, town or village in
which a soil and water conservation district
lies in whole or in part may cooperate with
the supervisors of the district in carrying
out the purposes of the district program, and
in the event the county court or governing
body finds that the benefits accruing to the
county or municipal area by reason of the pro-
gram of the soil and water conservation dis-
trict justify such action, the county court
or governing body may contribute money, ser-
vices or the use of equipment to the district."

Mr. James L. Wilson

Article VI, Section 25, Missouri Constitution, states, inter alia, that:

"No county, city or other political corporation or subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation . . ."

The first question you have raised is whether the soil and water conservation districts referred to in Section 278.145 are private associations or corporations. Under the existing case law in this state, the courts have held that districts of a similar nature are not private corporations, but are public, political subdivisions of the state. In Morrison v. Morey, 48 S.W. 629, 633 (Mo. 1898), the court stated:

". . . It is manifest that the levee district is not a private corporation. A private corporation is an aggregation of individuals, who have voluntarily associated themselves together. Here the levee district is constituted by the county court laying out the district, and a majority vote of the landowners in the district may order the work to be done. While the law requires a notice to be given of intention to apply to the county court for the formation of the district, it leaves the power to form the district in the court. The landowners can defeat the whole scheme by refusing, by a majority vote, to order the work done; and thus nullify the action of the county court in forming the district. Still the minority are drawn into it involuntarily, and this could not be done if it were a private corporation. It is a public, political subdivision of the state, which the state has the power to create, under its police powers, and as such subdivision it exercises the prescribed functions of government in the district. . . ."

Likewise, in Bohannon v. Camden Bend Drainage Dist., 208 S.W.2d 794 (K.C.Mo.App. 1948), the court stated:

". . . It is the law that a drainage district is a political sub-division of the

Mr. James L. Wilson

state, which state, under its police powers has the right to create, and as such sub-division it has authority to exercise prescribed functions of government in the district and, in carrying out the objects of its incorporation, it is exercising the police powers of its state. . . ."

In Opinion No. 327, Butler, July 28, 1966, this office concluded that:

". . . soil and water conservation districts created pursuant to Section 278.060, et seq. RSMo, Cum. Supp. 1965, are contemplated by and considered as 'public bodies' under the provisions of Section 290.210 (6) Cum. Supp. 1965, and are subject to the provisions of the prevailing wage law."

Likewise, in Opinion No. 304, Norbury, August 22, 1967, this office concluded that:

". . . soil and water conservation districts are governmental agencies of the state and do not come within the purview of Chapter 236, RSMo, which requires private persons or corporations to obtain permission of the circuit court to build dams for mills, electric power or other machinery; . . ."

On the basis of the above opinions and case law, it is apparent that a soil and water district is not a "private individual, association or corporation" as stated in Article VI, Section 25, Missouri Constitution.

Your second question concerns whether Section 278.145 violates Article VI, Section 25, Missouri Constitution. As stated above, Article VI, Section 25, Missouri Constitution, prohibits any political subdivision of this state from lending its credit or granting public money or property to any private individual, association, or corporation. Section 278.145, RSMo 1969, provides that counties and cities may contribute money, services, or the use of equipment to soil and water conservation districts. Since a soil and water conservation district is a public, political subdivision of the state, and not a private corporation, Section 278.145 does not violate Article VI, Section 25, Missouri Constitution.

Mr. James L. Wilson

CONCLUSION

It is the opinion of this office that (1) soil and water conservation districts, organized under the provisions of Chapter 278, RSMo, are not private corporations, but are public, political subdivisions of the state; and (2) Section 278.145, RSMo 1969, providing for aid to soil and water conservation districts from cities and counties, does not violate Article VI, Section 25, Missouri Constitution.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Robert M. Sommers.

Yours very truly,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General