



FILE

Subject

Bonds
Municipal General

Copy to

STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 28, 1974

Opinion No. 74-300

Mr. J. D. Hattaway
BLACK & VEATCH, Consulting Engineers
P. O. Box 8405
Kansas City, Missouri 64114

RE: Municipal bond maturity schedule; K.S.A. 1973 Supp. 10-103.

Dear Mr. Hattaway:

You have requested an opinion from this office relative to the application of K.S.A. 1973 Supp. 10-103 to the issuance of municipal bonds in this state. Specifically you ask three questions: (1) for the purpose of computing the applicable overlapping municipal debt within the meaning of the above statute is it permissible to combine various types of bonded indebtedness (e.g., general obligation bonds and utility revenue bonds); (2) what is the nature of the required "approval" as set forth in said statute; and, (3) what procedure is employed in securing such approval?

K.S.A. 1973 Supp. 10-103 provides in pertinent part:

"That all municipal bonds including bonds payable from assessments against the property benefited, shall be issued to mature in not more than twenty (20) installments of approximately equal amounts each year: Provided, That upon approval of the office of the attorney general the earlier installments may be reduced and

Mr. J. D. Hattaway
Page Two
August 28, 1974

the later installments increased so that the total amount required to pay principal and interest during the period covered by the maturity of such bonds shall be approximately the same or more nearly the same amount each year considering only the bonds then being issued or also considering all overlapping debt on the territory responsible for payment of the bonds." [Latter emphasis added.]

Primarily designed to effectuate an element of control over an issuing municipality's bonded debt service level, this statute broadly prescribes the two restrictions that bonds issued pursuant to the general bond law must mature in not less than twenty installments and that such installments must approximate equal amounts. However, the attorney general in specific instances is empowered with limited, discretionary authority to approve maturity schedules which deviate from these basic requirements.

It has long been a policy of this office to liberally construe the provisions of K.S.A. 1973 Supp. 10-103. This construction is necessarily limited to instances where principal and interest payments may be proportionately adjusted over the maturity period to achieve equal payments (of interest and principal combined) or where a maturity schedule qualifies for adjustment after taking into account all overlapping debt of the concerned territory. In either case any deviation from the equal installment requirement is still restricted to the "more nearly the same" installment schedule, and this office is without authority to approve any schedule which attempts to circumvent it.

In answer to your first question your attention is drawn to the latter emphasized segment of K.S.A. 1973 Supp. 10-103, supra. Municipalities are specifically instructed to consider all overlapping debt where they desire to utilize unbalanced maturity schedules. It is important to note, however, that for the purposes of this statute utility revenue bonds issued pursuant to K.S.A. 10-1201, et seq, are categorically excluded from this computation by definition inasmuch as they are authorized a thirty year maturity and they do not represent an obligation of a territory but rather of a utility's revenues.

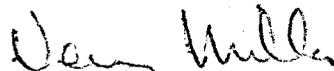
Mr. J. D. Hattaway
Page Three
August 28, 1974

Therefore, it is the opinion of this office that any attempt to construct a new maturity schedule reflecting present overlapping bonded indebtedness must entail the review of all bonds issued as direct obligations of the territory making the new issue.

This office examines proposed maturity schedules submitted either prior to or at the time an issue is reviewed for registration with the State Auditor. No specific criteria is employed beyond the guidelines set out in the statute. In other words, only the total bonded indebtedness picture for a territory as reflected by the overlapping debt or the balancing of principal and interest are considered in approving or disapproving unequal maturity schedules. Further, to secure approval for such schedules you need only to contact this office in writing setting forth the pertinent facts involved.

If we may be of further assistance to you, feel at liberty to contact us.

Very truly yours,



VERN MILLER
Attorney General

VM:JPS:bw