



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

July 15, 1975

ATTORNEY GENERAL OPINION NO. 75- 287

Mr. Matthew J. Dowd, County Counselor
Shawnee County Board of Commissioners
Shawnee County Courthouse-Room 205
Topeka, Kansas 66603

Re: Counties--Sewer Districts--Necessity For

Synopsis: A county proposing to construct sewer facilities wholly on county-owned property need not, as a legal prerequisite to such construction, organize a district therefor pursuant to K.S.A. 19-2704 et seq. when the costs of construction and maintenance of said sewer are to be borne entirely by general fund revenues.

Dear Mr. Dowd:

You advise that the Shawnee County Board of County Commissioners wishes to create a sewer district comprising property owned entirely by the county. The county owns considerable real estate on which Shawnee County Lake is situated, and the county proposes to construct sewer facilities in the area comprising this land. No special benefit district is contemplated, because the county intends to use general revenue for the construction and maintenance of the sewer facilities in question.

You question whether it is necessary that the city proceed to organize a sewer district following the procedures under K.S.A. 19-2704. K.S.A. 19-2704a commences thus:

"Either with or without having had a preliminary survey prepared as provided in K.S.A. 19-2704, or any amendments thereto, the board of county commissioners

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. . . , for the purpose of providing for the expenses of storm and sanitary sewerage, may upon presentation of a petition signed by the owners . . . of fifty-one percent of the acreage in the main sewer districts, lateral or joint sewer districts or taxing districts sought to be created, provide one or more taxing districts in such county or divide such county into such number of taxing districts as it may deem best"

[Emphasis supplied.]

The organization of a district under this act is not prerequisite for the construction of a sewer. Its organization is authorized "for the purpose of providing for the expenses of storm and sanitary sewerage" All construction and maintenance costs being borne by the general fund, there is no necessity, and no legal requirement, that a district be organized under this act as a prerequisite for the construction of a sewer the costs of construction and maintenance of which shall be borne by general fund revenues.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS/JRM/ksn