



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 4, 1976

ATTORNEY GENERAL OPINION NO. 76- 336

Mr. Thomas W. Stockwell
City Attorney
Suite 302
Santa Fe Trail State Bank Bldg.
Highway 50 at Antioch
Shawnee Mission, Kansas 66202

RE: Bond and Warrants--General Bond Law--Industrial
Revenue Bonds--Bond Register

Synopsis: The fact that those bonds issued pursuant to K.S.A. 12-1740, et seq. do not constitute general obligations of the issuing municipality prohibits the application of those statutory provisions contained in Chapter 10 of the Kansas Statutes Annotated to industrial revenue bonds. Thus, municipalities which issue bonds pursuant to K.S.A. 12-1740 are not required to record such bonds in the register maintained pursuant to K.S.A. 10-107.

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Dear Mr. Stockwell:

You have requested an opinion as to whether it is mandatory for a city of the second class to maintain a bond register when it issues Industrial Revenue Bonds.

K.S.A. 10-107 provides:

"The clerk, secretary or other recording officer of every municipality shall register all bonds issued by the municipality in his or her office. Such bonds shall also in every case, except city bonds and bonds issued by a school district or a community junior college,

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be registered by the county clerk and such registration shall show the date, number, amount thereof, rate of interest, number of coupons, amount of each, to whom payable, where payable and date of maturity...."

The word "municipality" is defined by K.S.A. 10-101 to mean and include:

"...every corporation and quasi corporation empowered to issue bonds in payment of which taxes may be levied."

The nature of the municipality's obligation in issuing bonds under Chapter 10 is specified at K.S.A. 10-112 which states:

"All municipal bonds shall constitute a general obligation of the municipality issuing the same and shall recite the authority under which they are issued and that they are issued in conformity with the provisions, restrictions and limitations thereof and that such bonds and the interest thereon are to be paid by such municipality, and such recital when said bonds have been duly registered as herein provided shall import absolute verity and shall be conclusive in favor of all persons purchasing said bonds, that all proceedings and conditions precedent have been had and performed to authorize the issuance of such bonds and such bonds shall be negotiable."

Finally, K.S.A. 10-125 limits the application of those statutes contained in Chapter 10 by providing:

"This act shall govern the issuance of all municipal bonds, except where different provisions are specifically provided by law, in which case the specific provisions shall control only so far as they conflict with this act."

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Construed together, these statutes clearly limit application of those statutes contained in Chapter 10 to those bonds which constitute a general obligation of the issuing municipality.

In regard to industrial revenue bonds issued pursuant to K.S.A. 12-1740, et seq., K.S.A. 12-1747 provides:

"Revenue bonds, as the term is used in this act, are defined to be bonds issued by any such city to be paid exclusively from the revenue produced by the property and facilities improved, constructed, reconstructed, repaired or otherwise improved by the use of the proceeds of said bonds. Such revenue bonds shall not be general obligations of the city, and shall not contain the recitals set forth in K.S.A. 10-112, or any amendments thereto..."

The fact that those bonds issued pursuant to K.S.A. 12-1740, et seq. do not constitute general obligations of the issuing municipality prohibits the application of those statutory provisions contained in Chapter 10 of the Kansas Statutes Annotated to industrial revenue bonds. Thus, municipalities which issue bonds pursuant to K.S.A. 12-1740 are not required to record such bonds in the register maintained pursuant to K.S.A. 10-107.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/HTW/cgm