



STATE OF KANSAS

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CURT T. SCHNEIDER
ATTORNEY GENERAL

November 27, 1978

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ATTORNEY GENERAL OPINION NO. 78- 373

Mr. Walter L. Cobler
Chairman
Metropolitan Topeka Airport Authority
Post Office Box 19053
Topeka, Kansas 66619

Re: Airports--Authorities--Duration

Synopsis: Under section 10 of ch. 148, L. 1978, the Metropolitan Topeka Airport Authority may not be dissolved by a vote of the board of county commissioners and the governing body of the City of Topeka so long as said Authority has any indebtedness outstanding and unpaid.

* * *

Dear Mr. Cobler:

On behalf of the Metropolitan Topeka Airport Authority, you request my opinion regarding section 10 of 1978 Senate Bill No. 564, found at ch. 148, L. 1978, as it affects the eligibility of the Authority to serve as a sponsor for federal funds under the Airport and Airways Development Act.

Your inquiry is prompted by a letter from Wm. Jack Sasser, Chief, Airport Division of the Central Region of the Federal Aviation Administration, advising that the provisions of section 10 may preclude satisfactory assurances that the Authority will continue in existence for the full term of an ADAP contract, normally twenty years.

Section 10, ch. 148, L. 1978, provides thus:

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"The authority may be dissolved by a two-thirds (2/3) majority vote of the governing body of the city and the board of county commissioners, and all property belonging to the authority shall thereupon be distributed to the city and county in the manner agreed upon by the governing bodies of the city and county. *The authority shall not be dissolved hereunder unless and until all of its liabilities, bonds and other valid indebtedness have been paid in full or have been otherwise discharged.*" [Emphasis supplied.]

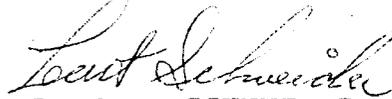
Under section 8 of the act, the Authority is authorized to issue general obligation bonds (subparagraph (a)), revenue bonds for the purpose of repairing, extending or improving properties and facilities of the Authority (subparagraph (b)), and industrial revenue bonds, as provided for cities by K.S.A. 12-1740 through -1749, as amended (subparagraph (c)). The decision to issue any such bonds rests solely in the Authority itself, subject to the filing of a sufficient petition and an election in the instance of general obligation bonds. So long as any such bonds are outstanding, the city governing body and the board of county commissioners are powerless to dissolve the Authority. The Authority itself, thus, becomes the sole determinant of its own longevity.

You advise that at the outset, the Authority is faced with an obligation to assume an indebtedness of approximately \$200,000 in outstanding bonds which were issued by the City of Topeka on behalf of the old city airport authority which was created pursuant to City of Topeka Charter Ordinance No. 26. These bonds, you advise, have maturities of ten and twenty years. The assumption of this indebtedness operates to forestall any authority of the city governing body and the board of county commissioners to dissolve the Authority, and that power remains inoperative so long as this or any other indebtedness of the Authority remains outstanding. Thus, the Authority is in a position, upon the assumption of the described indebtedness or the creation of any other and new indebtedness, the maturity of which extends twenty years or more, to give assurances to the Federal Aviation Administration of its continued legal existence during the period of such indebtedness.

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If further questions should arise, please feel free to call upon us.

Yours truly,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj