



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 83-20

Gordon K. Lowry  
317 Broadway  
P. O. Box 82  
Valley Falls, Kansas 66088

Re: Drainage and Levees -- Watershed Districts --  
Financing Proposed Projects; Special Assessments

Synopsis: The board of directors of a watershed district organized pursuant to K.S.A. 24-1201 et seq., may pay for works of improvement by making special assessments against lands especially benefitted by such project, with such assessments used to pay off improvement bonds issued by the district. Prior to doing so, the board must submit the question of approval of the bond issue to an election, said election involving only the owners of the land so benefitted and assessed. While the making of such special assessments accordingly can be limited to a particular subdistrict, the same is not true of a levy under K.S.A. 24-1219 for general improvement bonds, which must be spread over the entire district. Cited herein: K.S.A. 24-1215, 24-1217, 24-1219.

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Dear Mr. Lowry:

As attorney for the Delaware Watershed District No. 10, you request our opinion on several interrelated questions which concern the financing of district improvements. Specifically,

you indicate that the district wishes to raise money to supplement federal dollars, all for use in constructing improvements in a subwatershed contained in the district. You inquire concerning the methods which may be employed to raise such funds, and the required procedures which must be followed in so doing.

Initially, we would note that the Watershed District Act, K.S.A. 24-1201 et seq., provides a variety of different methods for the financing of district improvements. At K.S.A. 24-1215, it is provided that a district may issue general improvement bonds of the entire district, or may issue bonds paid for by special assessments on the particular tracts benefitted. In either event, the statute requires an election prior to issuance, and provides that:

"Notice of the time and place and the purpose for which such election is to be held shall be given by one publication at least twenty (20) days prior to the date fixed for such election."

Further procedures as to the conduct of the election are set out at K.S.A. 24-1207, and specify the voting places, ballot format, canvassing methods, and so forth.

Nothing contained in the statutory language of K.S.A. 24-1215 indicates that general assessment bonds can be issued for any unit of land smaller than the entire district. Such bonds are paid by a levy spread across the entire district, and are in addition to the 2 mill levy provided by K.S.A. 24-1219 for general operating expenses of the district. This latter statute, it should be noted, makes no allowance for the selective imposition of either type of levy only on one or more subdistricts.

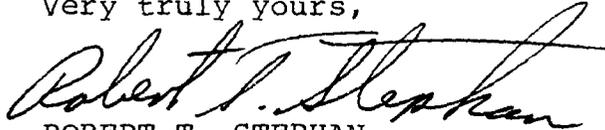
Accordingly, it is our opinion that the Act requires that improvements to a subdistrict be funded by the making of special assessments, the procedures for which are set forth by K.S.A. 24-1217. In that the statute is lengthy and not easily subject to being summarized, we will leave it to your later study. Prior to the imposition of such assessments, however, we must emphasize that an election approving the bonds funded thereby must be held, with the owners of said lands as the electors. K.S.A. 24-1215.

In conclusion, the board of directors of a watershed district organized pursuant to K.S.A. 24-1201 et seq., may pay for works of improvement by making special assessments against lands especially benefitted by such project, with such assessments used to pay off improvement bonds issued by the district.

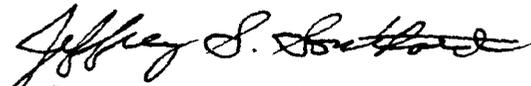
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Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:hle