



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

October 26, 1987

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87- 157

Mr. Stuart S. Lowry
Lowry & Johnson
323 Broadway
P.O. Box 10
Valley Falls, Kansas 66088

Re: Banks and Banking--Banking Code; Deposit of Public
Moneys--Bodies Subject Thereto; Rural Water
Districts

Synopsis: Rural water districts organized pursuant to K.S.A. 82a-612 et seq. are quasi-municipal corporations created by statute and are subdivisions of the state. Moneys held by rural water districts are public in nature. Therefore, pursuant to K.S.A. 1986 Supp. 9-1401 and 12-1675, rural water districts are required to deposit their funds in depositories which are located within their districts. Cited herein: K.S.A. 1986 Supp. 9-701; 9-1401; 12-1675; K.S.A. 82a-616.

* * *

Dear Mr. Lowry:

As legal counsel for Rural Water District No. 1, Jefferson County, Kansas, you have requested our opinion as to whether a rural water district organized pursuant to K.S.A. 82a-612 et seq. must designate and utilize depositories for its funds pursuant to K.S.A. 1986 Supp. 9-1401 and 12-1675. Specifically, you inquire as to whether a rural water district

is required to deposit its funds in a depository within its district.

K.S.A. 1986 Supp. 9-1401(a) provides in part:

"(a) The governing body of any municipal corporation or quasi-municipal corporation shall designate . . . the state and national banks, trust companies, state and federally chartered savings and loan associations and federally chartered savings banks with home offices located in the state of Kansas which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other than at such designated banks, trust companies, state or federally chartered savings and loan associations and federally chartered savings banks. The state and national banks, trust companies, state and federally chartered savings and loan associations and federally chartered savings banks which have offices in the county or counties in which all or part of such municipal corporation or quasi-municipal corporation is located shall be designated as such official depositories if the municipal or quasi-municipal corporations can obtain satisfactory security therefor, and such official depositories have a home office located in the state of Kansas. . . ."
(Emphasis added.)

K.S.A. 1986 Supp. 9-1401(c) provides further:

"As used in this section . . . 'municipal corporation or quasi-municipal corporation' includes each investing governmental unit under K.S.A. 12-1675, and amendments thereto. . . ."

K.S.A. 1986 Supp. 12-1675(a) lists the following governmental units:

"The governing body of any county, city, township, school district, area vocational-

technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds. . . ." (Emphasis added.)

Additionally, K.S.A. 1986 Supp. 9-701(n) provides:

"'Quasi-municipal corporation' shall mean any county, township, school district, drainage district, or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds." (Emphasis added.)

Rural water districts are incorporated by the boards of county commissioners in the counties in which the rural water districts are located and are considered subdivisions of the state pursuant to K.S.A. 82a-616. Therefore, rural water districts would appear to satisfy the definitions of "quasi-municipal corporation" found in K.S.A. 1986 Supp. 9-701(n) and 12-1675(a). Rural water districts receive moneys or funds generated by the sale of water. Attorney General Opinion No. 86-31. K.S.A. 1986 Supp. 9-701(l) defines "public moneys" as "all moneys coming into the custody of . . . any municipal or quasi-municipal or public corporation." Rural water districts are thus subject to the depository requirements of K.S.A. 1986 Supp. 9-1401(a).

In support of our conclusion, rural water districts have previously been recognized as public entities by the courts. In Dedeke v. Rural Water Dist. No. 5, 229 Kan. 242, 249 (1981), the court stated:

"Under Kansas law, a rural water district is a creature of statute (K.S.A. 82a-612 et seq.). It is incorporated as a quasi-municipal corporation by declaration of the board of the commissioners of the county in which the water district is located (K.S.A. 82a-616). The powers of a rural water district are prescribed by statute (K.S.A. 1980 Supp. 82a-619). It has been granted the power of eminent domain. In law and in fact, a rural water

district exercises the powers of a public utility. It is subject to state regulation and control. . . ." See also Whitewater River Watershed v. Butler Rural Electric Coop. Ass'n, Inc., 6 Kan. App. 2d 8, 14 (1981).

The court in Dedeke recognized rural water districts as "public" in nature. With this in mind, it would logically appear that the revenue generated by rural water districts should be classified as "public moneys or funds."

In summary, rural water districts organized pursuant to K.S.A. 82a-612 et seq. are quasi-municipal corporations. K.S.A. 82a-616, K.S.A. 1986 Supp. 9-701(n), 12-1675(a). Rural water districts have been recognized as public entities. Thus, revenues collected by rural water districts are "public moneys or funds," K.S.A. 1986 Supp. 9-701(l), and pursuant to K.S.A. 1986 Supp. 9-1401 and 12-1675, rural water districts are required to deposit their funds in depositories which are located within their districts if satisfactory security may be obtained therefor, and such depositories have a home office in Kansas.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm