



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 125

Fred W. Rausch, Jr.  
Attorney at Law  
Suite 201, 220 S.W. 33rd Street  
Topeka, Kansas 66611-2230

Re: Bonds and Warrants--General Bond Law--Municipal  
Liability

Synopsis: All of the taxable, tangible property located  
within a municipality at the time general  
obligation bonds of the municipality are issued, is  
primarily responsible for the payment of principal  
and interest on bonds issued. Cited herein:  
K.S.A. 10-119.

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Dear Mr. Rausch:

As counsel for community hospital district no. 1 you have  
requested an opinion concerning which property is primarily  
responsible for the payment of principal and interest on  
general obligation bonds issued by the various municipalities  
and quasi-municipalities in the state of Kansas.  
K.S.A. 10-119 provides:

"Whenever a part of the territory of any  
municipality has been detached and  
attached to some other municipality, or  
whenever any municipality has been  
disorganized according to law and the  
territory attached to or included in some  
other municipality or municipalities,

such territory shall be liable for the payment of all bonds issued or other indebtedness incurred by such municipality before such detachment or disorganization, and the proper taxing officers of the municipality to which such territory is attached shall levy such taxes upon such attached territory as are necessary to pay its proper proportion of the interest and principal of such bonds or other indebtedness as aforesaid, and such officers may be compelled by mandamus at the instance of the holders of such bonds or other indebtedness to levy such tax." (Emphasis added).

The provisions of K.S.A. 10-119 are clear. All of the taxable, tangible property located within a municipality at the time the municipality issues its general obligation bonds is primarily responsible for the payment of principal and interest on such bonds. Should the boundaries of a municipality later be changed, the property located within the municipality at the time the bonds were issued is still obligated for the payment of principal and interest on the bonds.

At the time general obligation bonds are issued a contract is formed between the municipality and the holders of the bonds, pledging that the municipality, as it exists at the time the bonds are issued, will retire said bonds and pay the interest thereon pursuant to their terms from taxes levied against all of the taxable, tangible property within the municipality. Although the legislature may provide other means for the payment of the principal and interest on said bonds, the bondholders may always look to the property within the issuing municipality at the time the bonds were issued for the payment of the principal and interest on those bonds. The constitutional prohibition against the legislature enacting laws which impair existing contracts precludes the legislature from removing the basic right of the bondholders to look to the property within the issuing municipality at the time the bonds were issued for the payment of the principal of and interest on those bonds.

Bonds characterized as "general obligation bonds" means that they are general obligations of all the taxable, tangible property located within the issuing municipality at the time the bonds are issued.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rebecca E. Floyd  
Assistant Attorney General

RTS:JLM:REF:jm