



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 3, 1975

ATTORNEY GENERAL OPINION NO. 75-445

Mr. Arthur C. Hodgson
Hodgson and Kahler
119 1/2 West Main Street
Post Office Box 666
Lyons, Kansas 67554

Re: Watershed Districts--Costs of Petition and Election
for Extension

Synopsis: Upon approval of the extension of an existing watershed district organized under K.S.A. 24-1201 *et seq.*, provision for payment of the costs of the petition and election approving such extension should be made by the board of directors of the watershed district which has been extended, and not by the steering committee or board of directors organized to accomplish the extension itself, the latter group having no further formal legal authority once the extension is approved.

* * *

Dear Mr. Hodgson:

You inquire concerning provision for payment of organizational costs incurred in the extension of the Upper Little Arkansas River Watershed Joint District No. 95. This district was incorporated in 1974, under K.S.A. 24-1201 *et seq.*, comprising portions of Ellsworth, McPherson and Rice counties, Kansas.

You advise that after the original district was organized, a number of landowners located downstream from the organized district wished to be annexed to the original district. After the appropriate petition was approved by the Secretary of State,

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the steering committee for the watershed extension organized as a board of directors to conduct the election, which was held November 13, 1975, at which annexation of the extension territory to the original district was approved.

You advise that at the present time, it is necessary to issue no-fund warrants to pay a portion of the organizational costs, and you inquire whether these no-fund warrants are to be issued by the board of directors of the annexed territory, or by the board of directors of the entire district. K.S.A. 24-1227 prescribes the procedure to be followed in the extension of territory of an organized and existing district. The petition required thereunder

"shall be circulated, signed, filed and transmitted in the manner prescribed for the original organization of a watershed district in sections 24-1203, 24-1205, 24-1206, and 24-1207 of the General Statutes Supplement of 1959, or any amendments thereto, and similar action shall be taken as prescribed in said section 24-1206, in so far as same is applicable."

The referenced statutes are those governing the organization of a new district. To the extent applicable to the extension of an original district, of course, they must be followed. K.S.A. 24-1208, although not specifically referenced by K.S.A. 12-1227, requires that when organization of a district is defeated at the special election or if the petition is disapproved by the chief engineer, the board of directors or steering committee shall continue to function in a limited capacity for the purpose of payment of all costs and expenses incurred in the organizational effort, *i.e.*, the costs and expenses incurred in the preparation and filing of the petition and in the conduct of the special election. If the incorporation of the district is approved at the special election, the board of directors of the district thus incorporated assumes the responsibility of satisfying the costs so incurred.

Where an election is held to approve the extension of territory of an existing district, the steering committee or board of directors of the extension territory is *functus officio* after approval of the extension at a special election. As a result of said election, the extension territory has become a part

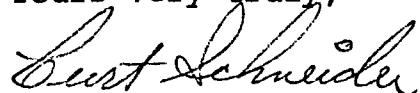
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of the territory of the existing district. The extension territory in and of itself has no continued corporate or legal existence, and its board of directors or the steering committee whose efforts led to the successful extension, has no continued legal authority. The board of directors of the incorporated district, which has absorbed the extension territory, must assume the legal authority and responsibility for payment of the costs of the petition and election incurred in the extension efforts. It is my opinion that both the authority and responsibility rests with the board of directors of the entire district for issuance of no-fund warrants for payment of the organizational costs.

Secondly, you ask whether in the preparation of a budget for the levy of a tax to pay the no-fund warrants issued for payment of the organizational expenses, a separate budget should be prepared by officers of the extension territory to levy a tax for the organizational expense, or whether the organizational expenses of the extension should be included in the budget of the district first organized. Once again, assuming I am correct that once the extension is completed, and the incorporation of the original district is amended to include the additional territory, the steering committee or the board of directors of the extension territory is without any further formal legal responsibility, no separate budget should be prepared by officers of the extension territory for 1976. Rather, the board of directors of the original district as extended should prepare the budget providing for payment of the extension expenses.

I hope these views are helpful to you. If we can be of further assistance, please feel free to call upon us.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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