



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

October 13, 1980

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

ATTORNEY GENERAL OPINION NO. 80-226

Mr. Gordon R. Olson
Nemaha County Attorney
Nemaha County Courthouse
Seneca, Kansas 66538

Re: Waters and Watercourses--Rural Water Districts--
Financing of Projects

Synopsis: Pursuant to K.S.A. 82a-619 (as amended by L. 1980, ch. 331, §4), a water district may not provide for the financing of any project authorized thereunder where the interest rate applicable to such financing is in excess of six percent. Cited herein: K.S.A. 10-1009 (as amended by L. 1980, ch. 55, §1), 82a-619 (as amended by L. 1980, ch. 331, §4), K.S.A. 1979 Supp. 82a-625.

*

*

*

Dear Mr. Olson:

You have asked this office to advise you of the appropriate interest rate ceiling for loans taken by a rural water district to finance a rural water district expansion project. Specifically, you ask us to consider two questions: First, do K.S.A. 82a-619 and 82a-625 permit a bank to lend money to finance improvements to a rural water district at a rate of interest in excess of 6%; and second, if a rate greater than 6% is permitted, what is the maximum interest rate a bank can charge?

An examination of the two above-cited statutes is pertinent to the resolution of your questions. K.S.A. 82a-619 (as amended by L. 1980, ch. 331, §4) deals with the powers of rural water districts, and, in relevant part, provides that a water district

Mr. Gordon R. Olson
Page Two
October 13, 1980

"shall have power to acquire loans for the financing of up to ninety-five percent (95%) of the cost of the construction or purchase of any project or projects necessary to carry out the purposes for which such district was organized and to execute notes and mortgages in evidence thereof with interest, or combined interest and mortgage insurance charges, not to exceed six percent (6%)"

The 6% interest rate limit mentioned in this provision has been in effect since 1957; in fact, the statutory limits therein imposed have remained virtually unchanged since that time, except for a change in the amount of the project to be financed from 90% to the current 95% level in 1974 (see L. 1974, ch. 449, §1). Furthermore, the 1980 Legislature amended parts of K.S.A. 82a-619 (see L. 1980, ch. 331, §4), but did not alter the 6% maximum interest rate prescribed therein.

The other statute mentioned in your letter is K.S.A. 1979 Supp. 82a-625, which provides:

"The board of directors of any district as provided shall have power to cause to be constructed within such district such works as are authorized by this act and to issue revenue bonds therefor, which shall be exempt from taxation. Such bonds shall be self-liquidating out of the revenue to be derived by the district for its services and facilities, shall bear interest at not more than the maximum rate of interest prescribed by K.S.A. 10-1009 and shall be issued under such provisions and conditions as the board shall determine."

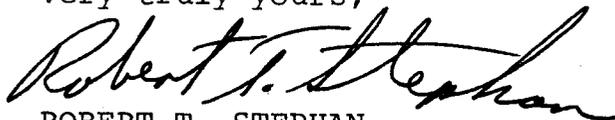
In our judgment, K.S.A. 1979 Supp. 82a-625 is not applicable to the situation you have posed in your request; it clearly concerns the applicable interest rates which may attach to revenue bonds issued by the water district to finance construction projects authorized therein, but it does not have any bearing upon financing contracted for with some financial institution, as is provided in K.S.A. 82a-619. K.S.A. 10-1009 (as amended by L. 1980, ch. 55, §1), which is referenced in 82a-625, concerns the interest rates on general obligation bonds, revenue bonds and temporary financing instruments issued by a municipality or other taxing subdivision, but with respect to water districts, it has application only to projects financed pursuant to K.S.A. 1979 Supp. 82a-625. It does not have any relevance to projects financed

Mr. Gordon R. Olson
Page Three
October 13, 1980

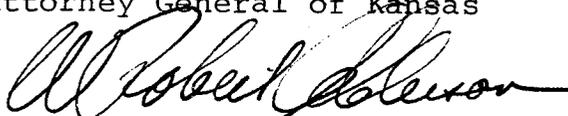
under K.S.A. 1979 Supp. 82a-619, since the provisions of 82a-619 do not contemplate the issuance of bonds in conjunction with the financing authorized thereunder.

Thus, it is our opinion that pursuant to this statute, a water district may not provide for the financing of any project authorized thereunder where the interest rate applicable to such financing is in excess of 6%.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

RTS:WRA:jm