



STATE OF KANSAS

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July 19, 1982

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ATTORNEY GENERAL OPINION NO. 82- 159

The Honorable David Webb
State Representative, Twenty-Seventh District
Box 163
Stilwell, Kansas 66085

Re: Counties and County Officers--Public Improvements--
Bond Limitation

Synopsis: The limitation on the issuance of county general obligation bonds, set forth in K.S.A. 19-2736, does not apply to sewer districts created under the provisions of K.S.A. 19-2704 to 19-2715. Cited herein: K.S.A. 19-2704, 19-2715, 19-2731, 19-2736, 19-2752, 19-2787, 19-2792, 19-27,113.

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Dear Representative Webb:

You request our interpretation of K.S.A. 19-2736. Specifically, you ask whether the limitation on the issuance of county general obligation bonds, set forth therein, applies to Blue River Sub-Sewer District No. 5 in Johnson County, Kansas. The aforesaid statutory limitation provides as follows:

"The amount of county general obligation bonds issued to provide for the building of the main trunk, outfall or intercepting sewer, including manholes, pumps, lift stations, disposal plants, and any other appurtenances, in any district, which may be unpaid at any time shall not exceed

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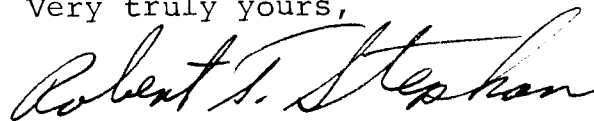
twenty percent (20%) of the amount of the assessed valuation of land and the improvements thereon in such main sewer district."
(Emphasis added.)

The above-quoted limitation is part of a 1945 act, subsequently amended on numerous occasions, which is codified at K.S.A. 19-2731 to 19-2752. The purpose of the 1945 act was to provide an additional method for the construction of sewers. See K.S.A. 19-2752; Johnson County Comm'rs v. Robb, 161 Kan. 683, 689 (1946). Moreover, the 1945 act is, by its terms, limited to certain counties having "a township with a population of five thousand or more, outside the limits of any incorporated city or town." K.S.A. 19-2731.

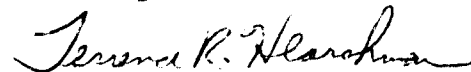
We are informed that Blue River Sub-Sewer District No. 5 was established under the provisions of a 1927 act, which is codified at K.S.A. 19-2704 to 19-2715. The 1927 act has no limitation similar to the above-quoted language of K.S.A. 19-2736, and, in our opinion, the statutory limitation of the subsequent and supplemental act has no application to sewer districts, such as the Blue River district, which are formed under K.S.A. 19-2704 to 19-2715. Neither, in our opinion, does a similar limitation, set forth in K.S.A. 19-2792, apply to the Blue River district, since, in our judgment, said limitation applies only to sewer districts created under the provisions of K.S.A. 19-2787 to 19-27,113.

In response to another question you have posed, which question relates to the same sewer district, we are unaware of any statutory provision which would invalidate a special assessment because of a property owner's inability to pay the assessment. See Kansas Attorney General Opinion No. 82-95.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm