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ATTORNEY GENERAL OPINION NO. 91- 135

Terence J. Scanlon
President
Kansas Development Finance Authority
400 SW 8th, Suite 100
Topeka, Kansas 66603

Re: State Boards, Commissions and Authorities --
Development Finance Authority -- Issuance of Bonds
for Juvenile Detention Centers

Synopsis: The Kansas development finance authority has the authority to issue bonds for the establishment of juvenile detention centers, as long as these centers provide mental health, mental retardation and drug and alcohol abuse services to the Kansas department of social and rehabilitation services. Cited herein: K.S.A. 1990 Supp. 74-8905; 74-8917.

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Dear Mr. Scanlon:

As president of the Kansas development finance authority (K DFA), you have requested an opinion on whether the K DFA has the authority to issue bonds for the establishment of juvenile detention centers in various counties across the state.

Pursuant to K.S.A. 1990 Supp. 74-8905(a), the K DFA is prohibited from issuing bonds for capital improvements if general obligation bonds are available. Specifically, this provision states:

"[N]othing in this act shall be construed to authorize the authority to issue bonds . . . to . . . finance any capital improvement facilities . . . which are authorized under the laws of the state to be financed by the issuance of general obligation . . . bonds."

However, notwithstanding this provision, the KDFA can issue bonds for such improvements if a statute specifically authorizes the issuance of the bonds. K.S.A. 1990 Supp. 74-8905(a).

Pursuant to K.S.A. 1990 Supp. 74-8917, the KDFA is allowed to issue bonds "to organizations which provide community mental health, mental retardation and drug and alcohol abuse services to the Kansas department of social and rehabilitation services." Therefore, for KDFA to be authorized to issue bonds to establish a county juvenile detention center, it must be determined whether the center will be an organization which provides mental health, mental retardation and drug and alcohol abuse services to the Kansas department of social and rehabilitation services.

Black's law dictionary follows the uniform commercial code and defines the word organization as "a corporation, government or governmental subdivision or agency, business trust, estate, trust partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity." Based on this, we believe that a county juvenile detention center would fit within the definition of an organization.

SRS has agreed to enter into a contract with juvenile detention centers which will require the centers to operate under the American Correctional Association Accreditation standards and achieve accreditation within two years. Under the contract the centers are required to provide counseling and social service plans which "include community mental health and alcohol and drug abuse services to children placed in the juvenile detention center." (Agreement between SRS and contracting counties, Section D, Part 4).

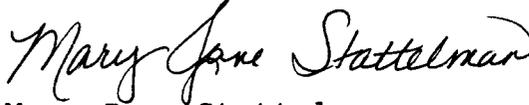
Therefore, insofar as the centers will be providing mental health, mental retardation and drug and alcohol abuse services to SRS pursuant to K.S.A. 1990 Supp. 74-8917, it is our

opinion that KDFA has sufficient statutory authority to issue bonds for these centers.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelman
Assistant Attorney General

RTS:JLM:MJS:bas