



STATE OF KANSAS

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February 17, 1992

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ATTORNEY GENERAL OPINION NO. 92- 24

Dennis G. Hall
Attorney for District
Tri-County Drainage District No. 1
Rossville, Kansas 66533

Re: Drainage and Levees -- General Provisions --
No-Fund Warrants for Emergencies; Procedure and
Timing Requirements for Payment of Warrants

Synopsis: K.S.A. 24-133 does not mandate that the no-fund
warrants issued in an emergency situation be
retired by a single levy. However, the extended
period of time used to redeem these warrants should
not exceed a reasonable time frame. Cited herein:
K.S.A. 10-1116a; 24-133; 24-618; 19-2777; and
79-2940.

* * *

Dear Mr. Hall:

As the attorney for tri-county drainage district no. 1 you
request our opinion as to whether K.S.A. 24-133 requires
no-fund warrants issued in an emergency situation be retired
by a single levy.

In your request letter you state that the drainage district
has serious emergency conditions which require the
construction and repair of several levees. At this time the
drainage district is unable to pay for the construction and
repair and therefore wishes to issue no-fund warrants pursuant
to K.S.A. 24-133. However, it is your opinion that \$200,000

in warrants would be necessary, an amount too great for the residents to incur in a one year period. You ask, therefore, if K.S.A. 24-133 allows the drainage district to stretch out the payment of these warrants over a period of time.

K.S.A. 24-133 states in pertinent part:

"The governing body shall levy a tax at the first tax levying period after the issuance to pay the emergency no-fund warrants and interest thereon. The levy shall be in addition to all other levies authorized or limited by law. Emergency no-fund warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, except they shall be issued without the approval of the state board of tax appeals and shall not bear the notation required by K.S.A. 79-2940."

Generally, no-fund warrants may only be issued with the state board of tax appeals' approval, which states the time frame in which the warrants must be redeemed. However, the above statute specifically exempts drainage districts from this requirement of going through the state board of tax appeals. Since the statute only speaks to when the tax shall be levied and does not state by when the bonds must be redeemed we must look at what "purpose the statute is to accomplish and the effect the statute may have under various constructions presented." Joe Self Chevrolet, Inc. v. Board of County Commissioners of Sedgwick County, 247 Kan. 625 (1990).

There are a number of statutes which allow warrants such as K.S.A. 10-1116a, 19-2777 to be redeemed within an extended period of time. Even K.S.A. 24-618 allows the board of supervisors of a drainage district to determine if a tax "shall be collected and paid in a single assessment or be divided into not exceeding twenty annual installments."

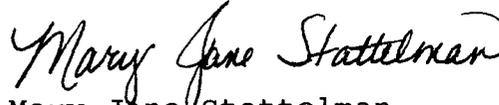
Because the statute does not specifically address when the no-fund warrants must be redeemed, we feel it necessary to take into account the enormous burden a single levy would have on the district's residents. Since other levying statutes allow for an extended redemption period and due to the fact that this is an emergency situation which does not allow for calculated planning and budgeting for such expenses, it is our opinion that the reasonable interpretation of K.S.A. 24-133

does not mandate a single levy. However, the extended period of time used to redeem these warrants should not exceed a reasonable time frame.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelma
Assistant Attorney General

RTS:JLM:MJS:bas