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ATTORNEY GENERAL OPINION NO. 92- 39

The Honorable Ross O. Doyen
State Senator, Twenty-Third District
State Capitol, Room 422-S
Topeka, Kansas 66612

Re: Drainage and Levees--Watershed Districts; Taxation
and Bonded Indebtedness--Use of Watershed District
Funds

Synopsis: Membership dues for watershed district association
may not be paid from the watershed district's
general fund. Cited herein: K.S.A. 1991 Supp.
24-1219.

* * *

Dear Senator Doyen:

As state senator for the twenty-third district, you inquire whether the state watershed district association dues may be paid from the general fund of a watershed district pursuant to K.S.A. 1991 Supp. 24-1219.

The state association of Kansas watersheds is a non-profit organization that promotes the interests of watershed districts throughout the state. Membership in the association is not compulsory and not all watershed districts are members.

K.S.A. 1991 Supp. 24-1219(b) authorizes the watershed district to levy a tax to create a general fund for the payment of "engineering, legal, clerical, land and interest in land, installation maintenance, operation and other administrative expenses. . . ."

The statute lists how the general fund moneys may be spent. At issue is whether the dues come under the category of "other administrative expenses". In our opinion they do not because the language has been construed to include only expenses directly related to the operation of a watershed district and the works of improvement undertaken by it.

Barton v. Turkey Creek Watershed Joint District No. 32, 200 Kan. 489 (1968), was an action to enjoin a watershed district and members of its board of directors from putting into operation the proposed method of the general plan of improvement for flood control. At issue was whether the method of financing adopted by the district was valid. Construing the language "operation and other administrative expenses" the court states:

"We cannot accept the appellants' logic in construing the provisions of the second paragraph [now subsection (b)] in 24-1219, supra. In construing statutes, qualifying words, phrases and clauses are ordinarily confined to the last antecedent, or to the words and phrases immediately preceding. The last antecedent, within the meaning of this rule, has been regarded as the last word which can be made an antecedent without impairing the meaning of the sentence. (50 Am.Jr., Statutes § 269.)

"While the foregoing rule of statutory construction is not inflexible, it clearly has application to the construction of 24-1219, supra, which does provide the purposes for which the general fund is to be created; that is, 'for the payment of engineering, legal, clerical, land and interests in land, installation maintenance, operation and other administrative expenses.'

"Applying the ordinary meaning to all of the language used in this section, the legislature clearly intended that the fund created by the general tax levy could be used for the purchase of land and interest in lands, as well as engineering, legal, clerical and other costs. Under the

foregoing rule of construction,
'operation' is the last word which the
phrase 'other administrative expenses'
qualifies. . . .

"The ordinary meaning of the language in
the second paragraph in 24-1219, supra,
suggests that it was tailor-made by the
legislature to fit works of improvement
undertaken by a watershed district in
cooperation with the federal government
under the Federal Watershed Protection and
Flood Prevention Act as exemplified by the
facts in the instant case." 200 Kan.
504.

Applying the rule of statutory construction cited above the
court finds that the phrase "other administrative expenses"
qualifies "operation" and thus the phrase in question
authorizes the expenditure of general fund moneys when the
administrative expenses are related to the works of
improvement undertaken by the district. It is therefore our
opinion that moneys from the general fund established by
K.S.A. 1991 Supp. 24-1219 may not be used to pay dues to the
state watershed district association because payment of the
dues is not within the purposes for which the tax moneys are
levied nor within the general purpose for which the watershed
district was organized. See K.S.A. 24-1209 general powers
and duties of a watershed district.

Very truly yours,



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