

COUNTIES: County courts issuing revenue bonds under  
LIABILITY FOR: Section 8548, R. S. Mo. 1939, incur no  
REVENUE BONDS: objection on a county other than that  
mentioned in the bond.

FILED NO. 20

May 22, 1941.



Honorable Marshall Craig  
Prosecuting Attorney  
Mississippi County  
Charleston, Missouri

Dear Mr. Craig:

This is in reply to yours of recent date wherein you request an opinion on the following statement of facts.

"There has been some discussion in the County Court with reference to taking over a bridge which spans the Mississippi River from Missouri into Illinois, at Cairo, Illinois, by the County, through the issuance of Revenue Bonds by the County.

"It is our understanding that such a project was perfected by Pike County, Missouri. The County is, of course, interested in protecting its credit and we would like to know whether or not the matter has ever been brought to your attention and whether the County in anywise binds itself. It appears, by Section 8548, Revised Statutes of Missouri, 1939, that there would be no obligation on the County and that the bonds would be retired on the income of the tolls and in that matter only. If you have had occasion

to give opinion on this matter, we would appreciate the benefit of your research so that the County might be certain of its position."

County courts and other political subdivisions of the state are authorized to issue toll bridge revenue bonds by authority of Section 8548, R. S. Mo. 1939. This section contains the following proviso:

"\* \* \* Provided, however, that no revenue bonds or any liens securing such bonds shall be repaid in whole or in part from any funds arising from taxation, nor shall any such bonds or liens, given under authority of this act constitute a lien on any other property of any such public agency or a pledge of the credit of such agency; \* \* \*."

Your inquiry goes to the question of whether or not additional liability is incurred by the county court in the issuance of such bonds. We think this question is the one answered in the case of State ex rel. City of Hannibal v. Smith, State Auditor, 74 S. W. (2d) 367, 1. c. 370, 371. In that case the following object was made to the issuance of bonds for erecting a bridge at Hannibal, Missouri, for which the City of Hannibal issued revenue bonds:

"The City Council of the City of Hannibal was without authority of law to adopt the said ordinance, because the ordinance is void in that it attempts to authorize the City to incur an indebtedness to an amount exceeding the income and revenue provided for the year in which the ordinance was adopted,

without a two-thirds vote of the voters of the City voting on a proposition to incur such indebtedness, at an election to be held for that purpose, as required by Section 12 of Article 10 of the Constitution; and because the ordinance makes no provision for the submission of such proposition to the voters of the City.

\* \* \* \* \*

"In substance, section 12, art. 10, of the Missouri Constitution, provides specifically against the incurring of an indebtedness in an amount exceeding the income and revenue provided for the year in which said indebtedness was incurred without the consent of two-thirds of the voters voting on the proposition.

"The bonds in question are to be paid for wholly out of tolls laid on the traffic using the bridge. The lien to secure the payment of the bonds is only on the income from the toll charged for the use of the bridge. There is no lien on the bridge itself.

"A municipality does not create an indebtedness by obtaining property to be paid wholly out of income of the property. Thus, bonds issued to pay for water works or light plant which provide that they shall be paid solely from income of such works or plant do not constitute an indebtedness.' 6 McQuillin, p. 48, Section 2389."

A number of cases are then cited by the court in support of its ruling. After citing those cases, the court further said:

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"We have consistently ruled that bonds or other forms of obligation issued by cities, counties, political subdivisions, or public agencies by legislative sanction and authority, if such particular bonds or obligations are secured and payable only from the revenues to be realized from a particular utility or property, acquired with the proceeds of the bonds or obligations, do not constitute debts of the particular political subdivision or public agency issuing them within the definition of 'debt' as used in the constitutional provisions of this state."

CONCLUSION

Therefore, it is the opinion of this department that toll bridge revenue bonds, which may be issued by a county under the provisions of Section 8548, R. S. Mo. 1939, would not obligate the county to raise funds for retiring such bonds from taxation, and that such bonds would not be a lien on any other property of such county, than the bridge, the payment for which they were issued.

Respectfully submitted,

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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