

June 27, 1973

OPINION LETTER NO. 205  
Answer by Letter - Klaffenbach

Honorable Frederick T. Dyer  
State Representative, District 51  
1025 Sherbrook  
St. Charles, Missouri 63301



Dear Representative Dyer:

This letter is in response to your opinion request asking:

"May a second class county advance or loan funds from either its general fund or from revenue sharing funds to a sewer district created under Chapter 204.250 R.S.Mo. 1969 for organizational expenses to be paid back to the county out of the proceeds of a revenue bond sale by the district?"

The common sewer districts to which you refer are created under the provisions of Sections 204.250, RSMo et seq., as amended.

In our opinion No. 193, dated June 12, 1969, to Moore, we held that revenue derived from a county tax levy under Section 137.555, RSMo, cannot be expended for such sewer district purposes. In that opinion we also noted the provisions of Section 204.360, which provide in part:

"The cost of any common sewer district of acquiring, constructing, improving or extending a sewerage system may be met:

\* \* \*

"(2) From any other funds which may be obtained under any law of the state or of the United States or from any county or municipality for that purpose; or . . ."

Honorable Frederick T. Dyer

We stated in passing on the particular question respecting the use of funds earmarked for road and bridge purposes that the provisions of subsection (2), above, contemplate "that funds may be obtained by the district from the county". To the extent that this statement indicated that subsection (2) is in itself an authorization to use any county funds for such sewer district purposes, the statement in the prior opinion was not fully clarified.

That is, a county court is invested with such powers only with reference to the management of the affairs of the property and business of the county as are expressly conferred on it by statute and such as may be fairly implied from those expressly granted. Walker v. Linn County, 72 Mo. 650 (1880). Our view of subsection (2) is, that it is not a grant of power to counties to make gifts or loans to such sewer districts and that express statutory authorization for such expenditures or loans is necessary.

We find no such express authority and conclude that there is no authority for the county to loan money to the sewer district.

It is also our view that this conclusion is applicable to "revenue sharing" funds. This is because Section 123(a) of the State and Local Fiscal Act of 1972, P.L. 95-512, provides that in order to qualify for any entitlement the unit of local government must establish to the satisfaction of the secretary of the treasury that it will expend amounts received under the Act only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

Very truly yours,

JOHN C. DANFORTH  
Attorney General