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JEFFERSON CITY

March 6, 1974

OPINION LETTER NO. 144

Honorable Russell G. Brockfeld
Honorable Omar Schnatmeier
Honorable Fred Dyer
Honorable George P. Dames
Missouri House of Representatives
c/o House Post Office
State Capitol Building
Jefferson City, Missouri 65101

Gentlemen:

This letter is in response to your question asking:

- "1) Does the St. Charles County Regional Sewer District, as formed, comply with the statutes?
- "2) In view of the defeat of the November bond issue, what is the legal status of the District at this time?
- "3) If the District still exists, does it have the legal right to resubmit the same bond issue for voter approval? Or does it have the right to resubmit a revised bond issue for approval?"

We understand that the district was organized under Sections 204.250, RSMo Supp. 1973, et seq.

Such a district is incorporated by decree of the circuit court under Section 204.280, RSMo. We are not in a position to challenge the order of the circuit court incorporating the district and therefore, it is our view that the district has a valid and legal existence and became a body corporate and politic under Section 204.290, RSMo, when the board of trustees provided for in

Honorables Brockfeld, Schnatmeier, Dyer, and Dames

Section 204.300, RSMo, were appointed. Under Section 204.290, all courts take judicial notice of the existence of the district so organized.

In our view the defeat of the revenue bond issue at the election does not affect the organization of the district. There are no provisions for the dissolution of the district in the event the bond election fails.

In answer to your question asking whether successive bond issue elections may be held, it has been our view in similar situations respecting school levies that a school board has the authority to call repeated elections. See Opinion No. 446 dated September 4, 1970, to Harold J. Esser, copy enclosed.

Under Section 204.450, RSMo, if the proposition for the issuance of revenue bonds to fund the construction of the system is defeated, the board of trustees of the district may levy and assess a special tax upon all real property to pay the cost of the proceedings incorporating the district, the preparation of the plan for the trunk sewer and treatment system, the conduct of the elections in the district, and the necessary expenses of the district from the time of its incorporation until the bond election. Section 204.360, RSMo, provides that other funds, as enumerated therein, may be used for the cost of any common sewer district of acquiring, constructing, improving or extending a sewer system.

We find no prohibition against holding further revenue bond elections. We conclude that, in the absence of such a prohibition, successive revenue bond issue elections may be held and that the same proposition or different propositions respecting the same may be submitted so long as there is no abuse in the exercise of such authority.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 446
9-4-70, Esser