

SUBDISTRICT WATERSHEDS:  
COSTS:

Mill tax money which is collected in subdistrict watersheds established under Chapter 278, Missouri Revised Statutes, Cumulative Supplement, 1957,

may be used to pay the cost of advertising for bids and the construction of works of improvement in the watershed development; such tax money may not be used in connection with the election of trustees; administrative costs closely connected with construction of works of improvement may be paid from proceeds of the mill tax; such other items of administrative costs as may not be paid out of such mill tax money, may be paid out of fund of the soil conservation district or districts in which the subdistrict in question is located.

March 21, 1960

Honorable Harold Slusher, Executive Secretary  
Missouri State Soil Districts Commission  
T-9 Building, University of Missouri  
Columbia, Missouri



**Dear Mr. Slusher:**

Your recent request for an official opinion reads:

"The State Soil Districts Commission would appreciate an official opinion regarding the use of the money levied in subdistrict watersheds established in Missouri under the conservation law, Chapter 278, Revised Statutes, Missouri, 1949. This law is also sometimes referred to as Senate Bill 124, 69th General Assembly, and is an amendment to Senate Bill 80, 62nd General Assembly.

"The question involved is - Can the mill tax money which is collected in subdistricts be used

1. To pay cost of the biannual election of trustees, which election is required by law?
2. To pay cost of advertising for bids in the construction of works of improvement in watershed development?
3. To pay any administrative cost necessary in the operation of a subdistrict of a soil district?

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"The State Soil Districts Commission will certainly appreciate your official opinion on this matter since six subdistrict watersheds scattered over the State will be affected in the next two years."

The expenditures necessitated by the imposition of certain duties upon the governing body of a subdistrict watershed, which is the board of soil district supervisors of the soil conservation district in which the subdistrict is formed, are indefinite but obviously substantial.

We now direct attention to numbered paragraphs 1, 2, 3, 4 and 5 of Section 278.250, Missouri Revised Statutes, Cumulative Supplement, 1957, which read:

"1. After the governing body has obtained agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than sixty-five per cent of the lands situated in the subdistrict, a special annual tax, as provided in subsections 4 and 5 may be imposed, the proceeds of which shall be used for construction, repair, alteration, maintenance and operation of the present and future works of improvement within the boundaries of the subdistrict in order to cost share in funds from federal sources appropriated for watershed protection and flood control.

"2. On or before July tenth of each year the governing body of the subdistrict shall make an estimate of the amount it deems necessary to be raised by such special tax for the ensuing year.

"3. If portions of the subdistrict are in more than one soil district, then the governing body, as hereinbefore designated in such event, after arriving at the estimate in dollars deemed necessary for the entire subdistrict shall ratably apportion such amount between the soil districts.

"4. The board of soil district supervisors of each soil district containing a subdistrict or

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a portion thereof shall make the necessary millage levy on the assessed valuation of all real estate within the boundaries of the subdistrict lying within their respective soil district to raise the needed amounts, but in no event shall the levy exceed four mills and, on or before the first day of September of each year, shall certify the rate of levy to the county court of the county within which the district is located with directions that at the time and in the manner required by law for the levy of taxes for county purposes the county court shall levy a tax at the rate so fixed and determined upon the assessed valuation of all the taxable property within the subdistrict, in addition to such other taxes as are levied by the county court.

"5. The body having authority to levy taxes within the county shall levy the taxes provided in this law, and all officials charged with the duty of collecting taxes shall collect the taxes at the time in the form and manner and with like interest and penalties as other taxes are collected; and when collected shall pay the same to the district ordering its levy and collection or entitled to the same, and the payment of such collections shall be made monthly to the treasurer of the soil district. The proceeds shall be kept in a separate account by the treasurer of the soil district and identified by the official name of the subdistrict in which the levy was made. Expenditures from the fund shall be made on requisition of the chairman and secretary of the governing body of the subdistrict."

It will be noted that numbered paragraph 1 of the above provides for the manner in which the tax money which is raised shall be used, and that those provisions are "for construction, repair, alteration, maintenance and operation of the present and future works of improvements within the boundaries of the subdistrict . . . ."

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No other provision is to be found in the law governing this matter other than in numbered paragraph 2 of Section 278.240, which provides that three persons living within the subdistrict shall be elected to serve as trustees to the governing body of the subdistrict and that "The trustees shall be reimbursed for any expenses incurred in the attendance of meetings of the governing body of the subdistrict."

The problem which lies before us, therefore, is whether the costs of the operations set forth by you in paragraphs 1, 2, and 3 of your letter are provided for in the permissible expenditures set forth in numbered paragraph 1 of Section 278.250, supra.

We believe it may reasonably be said that the cost set forth in paragraph 2, which is to pay costs of advertising for bids in the construction of works of improvement in watershed development, might well come within the proviso of "construction . . . . of . . . . present and future works of improvement . . . .", since the advertising for bids is a necessary prerequisite to such construction. However, the costs set forth by you in 1, to wit, to pay cost of the biannual election of trustees, could only be said to come within the purview of numbered paragraph 1 of Section 278.250, supra, by a most tenuous and remote inference, if at all. Perhaps there would be some items of administrative cost which might be so directly and intimately related to construction of works of improvement as to properly be classified as construction costs so that their payment could be said to be authorized to be paid out of the mill tax money. Certainly it could not be said to be true of all administrative costs. However, we believe that there is a source from which payment can be made of such items as cannot be said to be authorized for payment out of the mill tax money. The administration of a subdistrict is an activity of the soil conservation district or districts in which the subdivision shall be located. Such a subdistrict is not a separate legal entity, and the activities carried on therein are those carried on by the soil conservation district or districts in which the subdistrict is located. We believe that any administrative expenses for which there is no authorization for payment out of the tax money can and should be paid out of other funds of the soil conservation district or districts in which the subdistrict is located. In support of this proposition, we enclose copies of opinions rendered by this department on July 18, 1955, to L. C. Carpenter, Chairman, Missouri Watershed Protection and Food Prevention Committee, and on January 13, 1955, to Honorable J. H. Longwell, Director, Division of Agricultural Science.

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CONCLUSION

It is the opinion of this department that the mill tax money which is collected in subdistrict watersheds established under Chapter 278, Missouri Revised Statutes, Cumulative Supplement, 1957, may be used to pay the cost of advertising for bids and the construction of works of improvement in the watershed development; such tax money may not be used in connection with the election of trustees; administrative costs closely connected with construction of works of improvement may be paid from proceeds of the mill tax; such other items of administrative costs as may not be paid out of such mill tax money, may be paid out of funds of the soil conservation district or districts in which the subdistrict in question is located.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton  
Attorney General

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Enclosures: Opinions to:

L. C. Carpenter - July 18, 1955  
J. H. Longwell - January 13, 1955