

1979 WL 22803 (Alaska A.G.)

Office of the Attorney General

State of Alaska
File No. J-66-594-79
April 17, 1979

Village Safe Water Act, bond issue

*1 Hon. Ernst Mueller
Commissioner
Department of Environmental Conservation

You have asked whether the proceeds of the 1978 bond issue for 'water supply and sewerage systems,' ch. 145, SLA 1978, can be used to construct a 'washeteria,' as a loan fund for 'sewer holding tanks,' and to purchase 'special high powered pumper trucks.'

The short answer is no.

In Alaska, general obligation bonds may be issued only for 'capital improvements' and then only when 'authorized by law' and 'ratified by' the voters. [Alaska Const., art. IX, § 8](#). Neither the authorizing law, ch. 145, SLA 1978, nor the ballot proposition for ratification gave the least indication that a washeteria was any part of the proposed capital improvement.

The question put to the voters was as follows:

Shall the State of Alaska issue its general obligation bonds in the principal amount of not more than \$27,640,000 for the purpose of paying the cost of capital improvements for water supply and sewerage systems?

No reasonable person would infer from that language that constructing and equipping a washeteria was contemplated. Washeterias simply are not, in ordinary experience or understanding, considered a part of either a water supply system or a sewerage system.

A loan fund is not a capital improvement. Use of the bond proceeds to establish a loan fund for privately owned or privately possessed holding tanks would not appear to be within the range of permissible uses under either the constitution or the provisions of chapter 145, SLA 1978. Moreover, it is our understanding that tax exempt bonds may not be used for a loan fund other than for prescribed means of financing housing. Therefore, while this concept apparently has real merit, the proceeds of this bond issue cannot be used to finance it.

Finally, trucks are not, as a general rule, capital improvements. It may be that, on a case-by-case basis, some major items of heavy-duty equipment could fall within the meaning of capital improvements. [City of Juneau v. Hixsom, 373 P.2d 743, 746-747 \(Alaska 1962\)](#). But, as a general rule, the purchase of two trucks would not ordinarily be treated as a capital improvement. They simply do not possess a sufficient degree of permanency to achieve that status. We recognize, however, that there could be exceptions to the general rule, and we would be willing to consider any reasons propounded for finding an exception here.

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