Hon. Robert P. O'Bannon  
State Senator  
118 Elliott Avenue  
Corydon, Indiana 47112  

Dear Senator O'Bannon:

This is in response to your request for my Official Opinion on the following question:

"Can a county unit of government in Indiana issue bonds for financing a sanitary landfill on a basis of the bonds being retired from funds raised from general property tax?"

ANALYSIS


Section 10 of the Act is set out, in its applicable part, as follows:

"Nothing in this act * * * shall be so construed as to authorize or permit any county * * * to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely from the funds provided under this act or through general taxation or through a combination of these methods. Funds for the payment of the cost of such facilities may be provided in whole or in part by the issuance of revenue bonds of the county * * * the principal and interest of which bonds shall be payable solely from the special fund herein provided for such payment, and said bonds shall not, in any respect, be a corporate indebtedness of such county * * *" (My emphasis)

Financing of a sanitary landfill may be by general taxation or by revenue bonds. The above quoted statute, however, limits the method by which revenue bonds can be retired. The
phrase of limitation requires that the bonds be retired only from the special fund provided for such payment.

It is to be noted, however, that unappropriated funds of a county which were raised by general taxation may be advanced for all preliminary expenses actually incurred by a board of county commissioners in the making of surveys, estimates of costs and revenues, employment of engineers or other employees, the giving of notices and all other expenses of whatsoever nature, necessary to be paid prior to the issuance of any revenue bonds.

CONCLUSION

Therefore, it is my opinion that any revenue bonds issued by a county (including both principal and interest payable thereon) for financing a sanitary landfill, can be retired only from the special fund set up for that purpose, and that funds derived from general property tax cannot be used for the retirement of such revenue bonds.