

FILE

Subject

City Funds
Transfer
Miscellaneous
Airports



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

January 21, 1974

Opinion No. 74- 23

L. O. Bengtson
Salina City Attorney
300 West Ash Street
P.O. Box 903
Salina, Kansas 67401

Dear Mr. Bengtson:

K.S.A. 12-1675 authorizes the investment of public funds by any county, city, school district or quasi-municipal corporation, which is defined to

"mean a drainage district, cemetery district, hospital district, or other governmental subdivision having authority to levy taxes."

You advise that the Salina Airport Authority was created pursuant to the Surplus Property and Public Airport Authority Act, K.S.A. 27-315 et seq. The question presented is whether the Authority constitutes a "quasi-municipal corporation" empowered to invest funds under K.S.A. 12-1675 et seq.

K.S.A. 27-319 provides that the authority

"shall be a body corporate and politic constituting a public corporation and a tax-supported institution, agency and organization"

Under K.S.A. 27-322, the authority is empowered to levy a tax "[w]ith the consent of the governing body of the city" If the city governing body has granted the Authority permission to levy taxes as authorized by K.S.A. 27-322, it constitutes, in our view, a "quasi-municipal corporation" which may invest funds under K.S.A. 12-1675 et seq.

If the consent of the city governing body to levy taxes has not been obtained, there remains the question whether the

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Authority may invest funds under K.S.A. 27-320(e), whereunder it is empowered

"[t]o acquire, hold and dispose of property without regard to the provisions of any other laws governing the acquisition, holding and disposition of public property and public funds by cities and their agencies." [Emphasis supplied.]

"Property" under K.S.A. 27-318(c) includes "any interest in any real or personal property" acquired or available for acquisition from the United States, the state or any "other source authorized by this act."

This broad definition may be reasonably construed to include public funds in its custody which are not immediately required for the purposes for which they were received. Under K.S.A. 27-319(e), thus, public funds may be deemed "property" which the Authority may hold without regard to the provisions of any other law regarding the holding of public property and funds by cities, and thus without regard to the restrictions of K.S.A. 12-1675.

In our opinion, accordingly, the Authority is empowered under the authority of K.S.A. 27-320(d) to invest public funds which it holds and that such investments are not subject to the restrictions of K.S.A. 12-1675.

Yours very truly,



VERN MILLER
Attorney General

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