

FILE

Subject

Banking
Deposit Public Money
Misc
Conflict of Interest



STATE OF KANSAS

Office of the Attorney General

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

VERN MILLER
Attorney General

June 19, 1974

Opinion No. 74- 205

Robert L. Gernon
Brown County Attorney
Brown County Courthouse
Hiawatha, Kansas 66434

Dear Mr. Gernon:

We have your letter concerning placement of surplus funds of the Kanza Mental Health and Guidance Center. You advise that one of the members of the board of the Center, a banker, has participated in the placing of tax revenues derived from three different counties for support of the Center in his own banking institution. He also acts as treasurer of these funds. You indicate that several members have presented the question that these circumstances pose a possible conflict of interest.

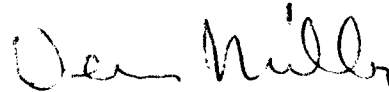
I enclose a copy of opinion no. 74-87, which deals with questions squarely analogous to those raised in your letter. We concluded that in making a deposit of public funds, the person or governing body which does so enters into a contract with the depository. Accordingly, any such person, or member of the governing body who participates in that decision, is subject to the prohibitions of K.S.A. 75-4304(a). This statute was amended by the 1974 Legislature, by Senate Bill 993, a copy of which is enclosed. I enclose, in addition, a recent opinion, addressed to Carl O'Leary, Kansas Banking Commissioner, concerning this amendment.

Based upon the facts in your letter, we cannot but conclude that should be the board member participate in a decision to deposit the funds in his own banking institution, he becomes subject to the prohibitions of K.S.A. 75-4304. He should, in our view, refrain from participating in any manner in the decision of the board of directors of the center regarding the selection and designation of a depository for surplus funds of the Center.

Robert L. Gernon
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If you should have further questions concerning this matter,
please feel free to contact us.

Yours very truly,

A handwritten signature in cursive script that reads "Vern Miller".

VERN MILLER
Attorney General

VM:JRM:jsm

Enc: 3