



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

December 16, 1975

ATTORNEY GENERAL OPINION NO. 75- 463

Marvin F. Bahr
Assistant Superintendent
Unified School District #267
P. O. Box 68
Andale, Kansas 67001

Re: Schools--Investments of Idle Levy Funds--Use of Interest

Synopsis: K.S.A. 1974 Supp. 12-1678a, as amended by the 1975 Legislature, places an affirmative duty upon the county to notify the school district of its intention to invest those tax monies levied and collected to pay the district's outstanding bonded indebtedness by the county on behalf of the school district.

If the school district fails to request distribution of those funds, the county may invest those tax dollars until at such time as the school district is required to pay matured bonds and coupons. Interest earned on the county's investment is to be credited to the county's general fund.

If the school district chooses to invest these funds, any interest earned is to be credited in accordance with K.S.A. 1974 Supp. 72-7062, as amended by Chapter 68, Section 4 of the 1975 Legislature.

* * *

Dear Mr. Bahr:

As assistant superintendent for Unified School District #267, you have inquired as to the disposition of interest earned on idle deposits of tax levies collected and held prior to payment of school

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district bonds and coupons maturing during the fiscal year for which the taxes are collected.

Specifically, you ask whether interest earned on idle tax levy deposits collected in order to retire the bonded indebtedness of the school district should be used in payment of principal and interest thereby reducing the subsequent tax levy.

In this regard, K.S.A. 1974 Supp. 12-1677 as amended by Chapter 68, Section 3 of the 1975 Session Laws states in pertinent part:

"Except as otherwise required by state or federal law, all moneys earned and collected from investments by counties, area vocational-technical schools and quasi-municipal corporations authorized in this act shall be credited to the general fund of such county, area vocational-technical school or quasi-municipal corporation by the treasurer thereof, and all moneys earned and collected from investments by school districts authorized in this act shall be credited in accordance with the provisions of K.S.A. 1974 Supp. 72-7062, and amendments thereto."

K.S.A. 1974 Supp. 72-7062 provides:

"Any revenues of a district, not required by law to be deposited in or credited to a specific fund, shall be deposited in or credited to any fund of the district specified in K.S.A. 1974 Supp. 72-7057 to 72-7061, inclusive, and amendments thereto or to the capital outlay fund except that revenues earned from the investment of an activity fund of a district, authorized under the provisions of K.S.A. 1974 Supp. 12-1675, and amendments thereto, may, at the discretion of the board of any district, be deposited in or credited to such activity fund of such district. To the extent that K.S.A. 72-1623 and 79-2958 conflict with this section, this section shall control."

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However, K.S.A. 1974 Supp. 12-1678a, as amended by Chapter 69, Section 1 of the 1975 Session Laws, provides further:

"The board of county commissioners of any county may invest any moneys of any political or taxing subdivision remaining in the hands of the county treasurer and not immediately required by such subdivision for the purpose for which such moneys were collected or received. The board of county commissioners may cause such moneys to be invested in any investment authorized under the provisions of K.S.A. 1974 Supp. 12-1675.

The board of county commissioners shall notify each political or taxing subdivision that public funds for its use have been received and are available for distribution to such political subdivision, at least seven (7) days before such funds are invested by the board as provided in this section. All moneys received by the county as interest upon investments hereunder shall be paid into the general fund of the county."

Thus, first, K.S.A. 1974 Supp. 12-1678, as amended, permits the board of county commissioners to invest "any moneys of any political or taxing subdivision remaining in the hands of the county treasurer not immediately required by such subdivision for the purpose for which such moneys were collected or received", provided that it notifies the political or taxing subdivision seven days prior to any such investment that such funds are available for distribution to that subdivision. If the subdivision does not request distribution of these funds during that seven-day interval, the board of county commissioners is free to invest those funds pursuant to K.S.A. 1974 Supp. 12-1675, as amended by Chapter 68, Section 1 of the 1975 Session Laws. Interest on these investments is to be credited to the general fund of the county.

On the other hand, if the political or taxing subdivision requests distribution of those funds collected or received on its behalf by the county, the interest earned from those school district investments authorized by K.S.A. 1974 Supp. 12-1675, as amended,

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is to be credited in whole or part to those funds created and specified in K.S.A. 72-7057 through K.S.A. 72-7061 or the capital outlay fund. In other words, K.S.A. 1974 Supp. 12-1678a, as amended, by the 1975 Legislature, places an affirmative duty upon the county to notify the school district of its intention to invest those tax monies levied and collected to pay the district's outstanding bonded indebtedness by the county on behalf of the school district. If the school district fails to request distribution of those funds, the county may invest those tax dollars until at such time as the school district is required to pay matured bonds and coupons. Interest earned on the county's investment is to be credited to the county's general fund. If the school district chooses to invest these funds, any interest earned is to be credited in accordance with K.S.A. 1974 Supp. 72-7062, as amended by Chapter 68, Section 4 of the 1975 Legislature.

Sincerely yours,



CURT T. SCHNEIDER
Attorney General

CTS:HTW:bv