



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 11, 1976

ATTORNEY GENERAL OPINION NO. 76- 179

Mr. Dan E. Turner
City Attorney
Legal Department
215 East Seventh Street
Topeka, Kansas 66603

Re: Cities--Public Funds--Investment

Synopsis: Senate Bill 851, enacted by the 1976 Legislature, does not alter the authority of Kansas cities to hold and manage municipal funds as described in Opinion No. 75-448.

* * *

Dear Mr. Turner:

In Opinion No. 75-448, I wrote concerning a proposed change in the method by which the City of Prairie Village held and managed its bank accounts. Under the proposal, to briefly review it here, the city would maintain one or more checking accounts with limited balances, either a zero balance or a fixed "checking floor," of perhaps, *e.g.*, \$5,000. Pursuant to an agreement with the depository bank, the city would also maintain one or more savings accounts with the bank. All deposits in the general checking account, for example, which increased the balance above an agreed-upon "checking floor," would automatically be transferred to the savings account. As checks were drawn by the city which would reduce the balance of the general checking account below the "checking floor," the necessary funds to honor those checks would be transferred from the savings account to the general checking account after receiving telephonic approval from persons designated and authorized by the city.

The question presented was whether this method of handling municipal funds was consistent with and authorized by Kansas law. I concluded, first, that the city funds held in savings accounts as described

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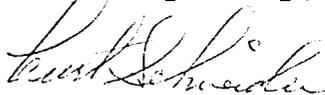
above did not constitute the investment of idle funds or, as described then in K.S.A. 1974 Supp. 12-1675, "any moneys not immediately required for the purposes for which the moneys were collected or received" The moneys which are held in the savings account are not inactive or idle, but on the contrary, may be drawn upon daily by transfer to the checking account to meet the city's ongoing obligations. I further concluded that even if the moneys in the savings accounts were held to be idle funds within the investment authority of K.S.A. 1974 Supp. 12-1675, that statute did not exhaust the municipal investment authority, for the statute at that time expressly preserved city home rule authority in the matter of investments.

Since that time, in 1976 Senate Bill 851, K.S.A. 12-1675 has been amended to eliminate the exercise of either city or county home rule powers in the matter of investment of "moneys not immediately required for the purposes for which the moneys were collected or received" Under the bill, cities may invest such moneys only in those investments enumerated therein.

You inquire whether enactment of Senate Bill 851 alters the authority of Kansas cities to hold and dispose of municipal funds as described above. In my opinion, it does not. Funds which are held in a savings account, under the agreement described above, are not idle funds, or "moneys not immediately required for the purposes for which the moneys were collected or received." These funds are indeed active funds of the city, drawn upon daily to meet the obligations of the city. They are not deposited in the savings account because they are not needed for a fixed or indefinite time in the future, but because interest may be paid on the funds while they remain available and virtually on demand for the city's use.

For this reason, I conclude that the handling of city moneys as described above and in Opinion No. 75-448 is not affected by 1976 Senate Bill No. 851.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj