



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 15, 1976

ATTORNEY GENERAL OPINION NO. 76-344

Mr. Philip E. Winter
Assistant County Attorney
Lyon County Courthouse
Emporia, Kansas 66801

Re: Probate Code--Unclaimed Moneys--Disposition

Synopsis: Unclaimed moneys deposited with the county treasurer pursuant to K.S.A. 1975 Supp. 59-1508 should be held in the custody of such treasurer for a period of ten years. At the end of that period, all undistributed unclaimed moneys should be remitted to the state treasurer pursuant to K.S.A. 20-2801.

* * *

Dear Mr. Winter:

K.S.A. 1975 Supp. 59-1508, of the Kansas Probate Code, provides for the disposition of unclaimed money remaining in an estate under the jurisdiction of the probate court:

"If any part of the money on hand has not been paid over because the person entitled thereto cannot be found or refuses to accept the same, or for any other good and sufficient reason, the court may order the executor or administrator to pay the same to the county treasurer for the same disposition as is provided by section 1 [20-2801] of this act for moneys received from forfeitures

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Upon application of the probate court within ten (10) years after such deposit, and upon notice to the county attorney and the county treasurer, the court may order the county treasurer to pay the same to the person entitled thereto."

The question arises how, once unclaimed moneys are turned over to the county treasurer for disposition pursuant to K.S.A. 20-2801, any payment which is ordered by the court within ten years thereafter as authorized by the quoted language may be satisfied. Subparagraph (a) of K.S.A. 20-2801, which directs disposition of the unclaimed moneys, directs their deposit in the state treasury to the credit of the state school equalization fund:

"Notwithstanding any other provision of law, the county treasurer of each county shall collect all moneys due the county from fines, penalties and forfeitures, including all moneys collected under this act. The officers of each court of this state shall pay all of the proceeds of the fines, penalties and forfeitures to the county treasurer who shall remit the same to the state treasurer, and the state treasurer shall deposit the same in the state treasury to the credit of the state school equalization fund."

If the county treasurer remits the unclaimed moneys to the state treasurer prior to expiration of the ten-year period, the county treasurer is unable to respond to any order of the court directing payment thereof which is entered within that period. Once the unclaimed money is remitted to the state treasurer, and deposited in the state treasury, it may not be withdrawn without an appropriation therefor.

Statutes which are *in pari materia* should be construed together in order to harmonize all parts thereof, and in order to implement the obvious legislative purpose wherever possible. *Flowers v. Marshall*, 208 Kan. 900 at 904, 494 P.2d 1184 (1972). Both K.S.A. 20-2801 and K.S.A. 1975 Supp. 59-1508 relate to the same subject matter, funds required to be remitted by the county treasurer to the state treasurer for deposit in the state treasury to the credit of the state school equalization fund. The two must be construed together, to the extent possible, to permit the county treasurer to honor all payments ordered by the court under the

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latter statute, and at the same time make all remittances to the state treasurer required by the former. In my judgment, the two provisions may be reconciled by construing them to require that the county treasurer retain custody of all unclaimed moneys deposited with that officer under K.S.A. 1975 Supp. 59-1509 for a period of ten years from the date of such deposit, and at the end of that period, to remit all undistributed unclaimed moneys to the state treasurer which have been held for a period of ten years to the state treasurer pursuant to K.S.A. 20-2801.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj