



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 16, 1977

ATTORNEY GENERAL OPINION NO. 77- 264

Mr. John Dekker
Director of Law
Office of City Attorney
455 North Main Street
Wichita, Kansas 67202

Re: Cities--Idle Funds--Investment

Synopsis: Idle funds of the City of Wichita may be invested in temporary notes issued by the Wichita Metropolitan Transit Authority.

* * *

Dear Mr. Dekker:

You inquire whether the City of Wichita may invest its idle funds, which are not immediately required for the operation of the city, in bonds, short-term notes and obligations of the Wichita Metropolitan Transit Authority.

You indicate that nearly 50 per cent of the annual operating cost of the transit authority is paid by funds derived from federal grants under the Urban Mass Transportation Act. Because these funds are usually not available until the end of the year, the Authority may exhaust its cash resources to meet its obligations about midway through the year, and must borrow from commercial lenders until the federal money is received. Thus, it has been proposed that the city invest its idle funds in bonds, short-term notes and obligations of the Authority as an alternative means of financing its operations until federal funds are received each year.

K.S.A. 1976 Supp. 12-1675, as amended by 1977 Senate Bill No. 10, ch. 55, L. 1977, provides in pertinent part thus:

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"The governing body of any county, city, township, school district, area vocational-technical school, community junior college, community mental health center and/or community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other act of the legislature. Such moneys shall be invested only in (a) temporary notes issued by such investing governmental unit"
[Emphasis supplied.]

The Authority is organized to implement ch. 31, art. 31, K.S.A. By charter ordinance, the city has exempted itself from K.S.A. 13-3103, -3104 and -3106, and has provided substitute and additional provisions therefor. Recently, these charter ordinances have been modified and consolidated in Charter Ordinance No. 56, a copy of which you enclose. The Authority is created as an agency of the city, "to act on behalf of said City." [Section 2] Its members are appointed by the city commission, which may remove said members for cause. The Authority is required to prepare an annual budget, to be reviewed by the city commission, which then may levy a tax sufficient in its judgment to implement the budget so prepared. The city manager is authorized to appoint the executive director of the Authority, from a list of candidates prepared by the Authority, in the order of preference appearing thereon. The executive director and subordinate administrative employees are provided to be city employees.

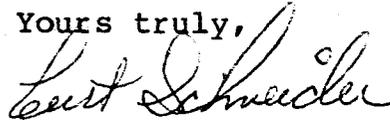
Clearly, the Authority is an administrative arm of the city. Its administrative employees are employees of the city, and its operations are funded, in part, by a levy authorized by the city governing body. The Authority exists solely as a creature of the city ordinance, to act for and on behalf of the city. It enjoys substantial administrative autonomy, but it is not a legally separate and independent body, unrelated to the city governing body.

The city is authorized to invest its idle funds in its own temporary notes, i.e., those issued by "such investing governmental unit." The "governmental unit" in this instance is the City of

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Wichita, and the Transit Authority acts as but an administrative and subordinate arm or instrumentality of that "investing governmental unit." In my judgment, temporary notes of the Authority are temporary notes of the city as the "investing governmental unit" for the purposes of K.S.A. 1976 Supp. 12-1675, as amended, and idle funds of the city may lawfully be invested in the temporary notes of the Authority.

Yours truly,

A handwritten signature in cursive script, appearing to read "Curt Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj