



STATE OF KANSAS

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June 5, 1980

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ATTORNEY GENERAL OPINION NO. 80- 124

J. Bryon Meeks  
Edwards County Attorney  
Box 227  
Kinsley, Kansas 67547

Re: Schools--Distribution of School Moneys by County  
Treasurer--Time for Payment

Synopsis: While K.S.A. 72-1018 prescribes no time limit within which a county treasurer must make a distribution of moneys in the county treasury belonging to the school district, such distribution must be made within a reasonable time following the receipt by the county treasurer of a request therefor. The reasonableness of the time within which a county treasurer responds to such request is a question of fact to be ascertained in light of all facts and circumstances, but in no event should a requested distribution be delayed beyond the dates specified in K.S.A. 19-520. Cited herein: K.S.A. 19-520, 72-1018.

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Dear Mr. Meeks:

You explain that a controversy has arisen between the treasurers of two school districts and the treasurer of Edwards County relative to the disbursement of tax proceeds collected by the county treasurer on behalf of the school districts. It appears the school treasurers, pursuant to K.S.A. 72-1018, have requested the county treasurer to pay over school district moneys held

J. Bryon Meeks  
Page Two  
June 5, 1980

by the county treasurer, but the county treasurer has refused to comply with the requests for the reason that, at the time of the requests, there had not been sufficient time for the county treasurer to calculate the amount of money in the county treasury belonging to the school districts. You ask if there is any time limitation within which the county treasurer must honor a request by the school district to pay over tax revenues collected by the county treasurer on behalf of the school districts.

K.S.A. 72-1018 provides:

"The county treasurer shall pay to each school district treasurer in the county all school moneys in the county treasury belonging to the district, upon the order of the treasurer of the district countersigned by the district clerk except as otherwise provided by law. The county treasurer shall not pay to any school district treasurer any moneys unless and until he has been notified by the clerk of the school district that the school district treasurer has filed his bond as provided by law."

While under this statute, it is clearly the duty of the county treasurer to pay to each school district treasurer all moneys in the county treasury belonging to the school district upon the receipt of a proper order to do so, it is equally clear that the statute prescribes no period of time within which the requested distribution is to be made following the receipt of such an order. Thus, in our judgment, the "reasonable time rule" is applicable. Said rule is as follows:

"Where no time has been fixed for the performance of an act to be done, the law implies that performance is to be accomplished within a reasonable time." Singer Company v. Makad, Inc., 213 Kan. 725, Syl. para 7 (1974).

Moreover, "[w]hat constitutes a reasonable time depends on the facts and circumstances of the particular case." Id. at Syl. para 8.

We cannot state as a matter of law the time within which the county treasurer should make distributions to school district treasurers. However, based upon the provisions of K.S.A. 19-520, we can state positively that the county treasurer should know, on the last business day of January, April, July and October in each year, the exact amount of funds in the county

J. Bryon Meeks  
Page Three  
June 5, 1980

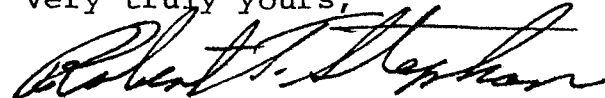
treasury belonging to the school district. We base this conclusion on that portion of K.S.A. 19-520 which provides:

"[I]t shall be the duty of the county treasurer in each county on the last business day of January, April, July and October in each year, to make a statement showing the amount in the treasury on the day of making the statement and the different funds to which it belongs; the amount of funds of the . . . school district . . . being clearly set forth . . . ."  
(Emphasis added.)

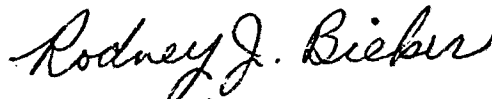
Thus, we are of the opinion that while K.S.A. 72-1018 does not contain an express provision relating to the time within which school district funds in the care, custody and control of the county treasurer are to be distributed to a school district treasurer, it is clear the county treasurer must know, on the dates specified in K.S.A. 19-520, the amount of school district funds in the county treasury belonging to the school district. It naturally follows that distributions of school district funds cannot be delayed beyond those dates based upon the assertion that the county treasurer has not had a sufficient period of time to determine the amount of school funds in the county treasury belonging to the school district. Thus, we are of the opinion that distributions of school district funds definitely should not be delayed beyond those dates specified in K.S.A. 19-520, if a proper request for a distribution is made prior thereto.

In summary, we are of the opinion that, while K.S.A. 72-1018 prescribes no time limit within which a county treasurer must make a distribution of moneys in the county treasury belonging to a school district, such distribution must be made within a reasonable time following the receipt by the county treasurer of a request therefor. The reasonableness of the time within which a county treasurer responds to such request is a question of fact to be ascertained in light of all other facts and circumstances, but in no event should a requested distribution be delayed beyond the dates specified in K.S.A. 19-520.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
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