



STATE OF KANSAS

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January 23, 1981

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ATTORNEY GENERAL OPINION NO. 81-23

Mr. Patrick J. Hurley  
Secretary of Administration  
Room 263-E  
State Capitol Building  
Topeka, Kansas 66612

Re: Cities and Municipalities--Miscellaneous Provisions--  
Investment of Public Moneys By Governmental Subdivisions,  
Units and Entities

Synopsis: A municipality may not invest idle funds in its own  
no-fund warrants.

Entitlement (federal revenue sharing) funds appropriated  
or budgeted by units of local government on or after  
January 1, 1977, may be used to pay principal and interest  
on no-fund warrants issued by a municipality.

Where a municipality does not intend to issue bonds to  
finance an improvement, temporary notes may not be  
issued, and a municipality may not exercise its home  
rule powers to deviate from the provisions of K.S.A.  
1980 Supp. 10-123. Cited herein: K.S.A. 1980 Supp.  
10-123, 12-1675; 31 C.F.R. §51.41.

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Dear Secretary Hurley:

You request our opinion as to the propriety of certain financial  
transactions of municipalities, which transactions are set forth  
below. You state that the questions relative to propriety were

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raised by the municipal accounting section of the Division of Accounts and Reports, with respect to audit reports of certain municipalities which are filed with the Division.

The first question is whether a municipality may invest idle funds in its own no-fund warrants. K.S.A. 1980 Supp. 12-1675 restricts municipalities in the investment of idle funds, and none of the five classes of permissible investments set forth in the aforesaid statute include no-fund warrants of the municipality. In Attorney General Opinion No. 79-233, we concluded that any investment of idle funds by a governing body must be in compliance with the requirements of K.S.A. 1980 Supp. 12-1675, and that a county may not exercise its home rule powers to deviate from the provisions of that statute. In our judgment, Attorney General Opinion No. 79-233 is dispositive of the question which has been raised, and a municipality may not invest idle funds in its own no-fund warrants.

The second question raised is whether federal revenue sharing funds may be used to pay no-fund warrants, and whether such funds may be used to pay the interest on no-fund warrants. We have enclosed, for your review, a copy of 31 C.F.R. §51.41 which indicates that, with regard to entitlement funds appropriated or budgeted by units of local government on or after January 1, 1977, such funds may be used for either of the above-stated purposes. Additionally, this office has previously opined that federal revenue sharing moneys received by a local government may be expended for any program which is authorized by either state statute or local ordinance, and that such moneys may be added to the budget of a unit of local government at any time during the year, provided statutory notice and hearing requirements are met. See Attorney General Opinion Nos. 79-236 and 79-257 (copies attached).

The final question is whether cities and counties may issue temporary notes for projects where no bonds are to be issued. You state that one county has used its home rule powers as a basis for redeeming temporary notes without a bond issue, and that some cities have issued temporary notes without any intention of issuing bonds.

K.S.A. 1980 Supp. 10-123 allows the governing body of a municipality to issue temporary notes "[i]f a municipality shall have theretofore duly authorized the making of an improvement which is to be paid for in whole or in part by the issuance of bonds." While this statute grants permissive authority to a municipality to issue temporary notes, it is clear that the condition-precedent (i.e., having previously authorized the making of an improvement to be paid for in whole or in part by the issuance of bonds) stated

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therein is a requirement which applies uniformly to all municipalities. Therefore, a municipality may not issue temporary notes where there is no intention to issue bonds, and a municipality may not exercise its home rule powers to deviate from the provisions of K.S.A. 1980 Supp. 10-123.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:BJS:TRH:jm  
Attachments