



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 81- 211

Roy P. Britton  
Banking Commissioner  
Banking Department  
Suite 600, 818 Kansas Ave.  
Topeka, Kansas 66612

Re: Banks and Banking -- Deposit of Public Moneys --  
Bank's Eligibility as Depository

Cities and Municipalities -- School Districts --  
Investment of Idle Funds

Synopsis: Where a bank's main facility is not located within the boundaries of a school district, but such facility and all or part of the school district are located in the same county and the bank's detached auxiliary banking services facility is located within the school district: (1) As noted in Attorney General Opinion No. 81-53, the bank is eligible, by virtue of the location of its detached auxiliary banking services facility within the school district, to receive deposits of the school district's idle funds pursuant to K.S.A. 1980 Supp. 12-1675(b); and (2) if the bank can provide satisfactory security for the school district's deposits, the bank is eligible to be a depository for the school district's funds pursuant to K.S.A. 9-1401. Cited herein: K.S.A. 1980 Supp. 9-701 (as amended by L. 1981, ch. 49, §1), K.S.A. 9-1401, K.S.A. 1980 Supp. 9-1402, 12-1675.

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Dear Commissioner Britton:

Your office has posed two questions regarding the deposit of a unified school district's funds. As we understand it, the questions arise because a particular bank has been notified

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by the board of education of such school district that said bank is not legally qualified to act as a depository for the school district's moneys. While the bank's main facility is not located within the boundaries of the school district, the bank and school district are located in the same county, and the bank's detached auxiliary banking services facility is located within the school district.

Based on these facts, you first inquire whether the bank in question is precluded from receiving deposits of the school district's idle funds in accordance with K.S.A. 1980 Supp. 12-1675(b). This precise issue was addressed in Attorney General Opinion No. 81-53, in which we concluded:

"A school district may make deposits of its idle funds pursuant to K.S.A. 1980 Supp. 12-1675(b) in a detached auxiliary banking service facility operating by virtue of K.S.A. 1980 Supp. 9-1111. The presence of such a facility in the district satisfies the requirement of K.S.A. 1980 Supp. 12-1675(b) that the deposits be made in a bank 'located' in the governmental unit. However, the bank is located in the district only for the limited purposes set forth by K.S.A. 1980 Supp. 9-1111, and the district may not transact business of a type not authorized thereby." Id. at Synopsis.

We affirm that conclusion and enclose a copy of Opinion No. 81-53 for your consideration.

You also inquire whether said bank is legally precluded from being a depository for the school district's funds pursuant to the provisions of K.S.A. 9-1401. That statute provides, in pertinent part:

"The governing body of any municipal or quasi-municipal corporation shall designate by official action recorded upon its minutes the state and national banks and trust companies which shall serve as depositories of its funds and the officer and official having the custody of such funds shall not deposit such funds other than at such designated banks and trust companies. The state and national banks and trust companies of the county or counties in which all or part of such municipal or quasi-municipal corporation is located shall be designated as official depositories if the municipal or quasi-municipal corporation can obtain satisfactory security therefor."

The foregoing is applicable to the governing body of a school district, which is a "quasi-municipal corporation" by virtue of the definition of that term in K.S.A. 1980 Supp. 9-701, as amended by L. 1981, ch. 49, §1. However, we do not read the above-quoted provisions as precluding the bank in question from being designated as a depository of the particular school district's funds. Irrespective of whether the rationale of Opinion No. 81-53 is applicable in this instance, we note that the only geographical limitation imposed by K.S.A. 9-1401 is that the bank be situated in "the county or counties in which all or part of the municipal or quasi-municipal corporation is located." Since the bank's main facility and the school district are located in the same county, it is our opinion that the location of the bank's main facility outside the school district does not preclude the bank from being designated as a depository of the school district's funds pursuant to K.S.A. 9-1401.

We note that our opinion is consonant with the conclusion reached in Attorney General Opinion No. 79-34, which was expressed in the opinion's synopsis, as follows:

"A city of the second class may designate a state or national bank or trust company located outside said city, but within a county in which all or part of such city is located, as an official depository of its funds."

Before concluding, we think it appropriate to make two additional observations. First, even though the bank in question is eligible to be designated a depository of the school district's funds, nothing in K.S.A. 9-1401 requires such designation. As noted in a letter opinion of Attorney General Frizzell:

"Nothing in that statute [9-1401], or in any other statute of which we are aware, requires any apportionment among designated official depositories except to the extent required by their willingness to furnish security for such deposits." VI Op. Att'y Gen. 52.

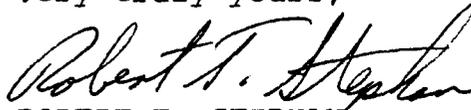
The foregoing conclusion was reiterated by Attorney General Frizzell in a subsequent letter opinion of August 5, 1970. See VI Op. Att'y Gen. 215.

The second concluding observation is prompted by the first. That is, the satisfaction of the location requirements of K.S.A. 9-1401 does not in and of itself make the bank an eligible depository under that statute. The bank also must be

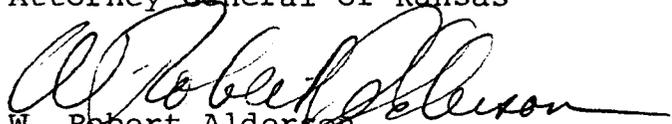
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able to provide "satisfactory security" for the school district's deposits. The requirements in this regard are prescribed by K.S.A. 1980 Supp. 9-1402.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



W. Robert Alderson  
First Deputy Attorney General

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