



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

November 19, 1975

ATTORNEY GENERAL OPINION NO. 75-- 435

Mr. Lyle Ocobock
Special Assistant State Treasurer
535 Kansas Avenue
Topeka, Kansas 66603

Re: State Moneys--State Active Bank Accounts--Service Charge

Synopsis: The specific terms of K.S.A. 75-4202 do not manifest legislative intent of requiring banks servicing state active bank accounts to provide without charge the paper stock and printing of warrants, drafts or checks to be used by the state.

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Dear Mr. Ocobock:

You have requested an opinion from this office interpreting a provision of K.S.A. 75-4202 which in pertinent part provides:

"All banks having a state bank account shall *service* all warrants, drafts or checks of the state or its agencies without charge." [Emphasis supplied.]

Essentially you ask whether the statute by specifying "service" without charge requires those banks handling such accounts to pay for the paper stock and printing of the state's warrants, drafts or checks.

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The operative effect of the sentence in question appears to pivot upon the definition of the verb "service," which unfortunately is not provided for within the act itself. Absent such specific definition we necessarily resort to additional intrinsic aids to ascertain the exact meaning the Legislature intended this sentence to have. The adjective phrase "of the state or its agencies" collectively modifies the terms "warrants, drafts and checks." The inference raised by this language is that these instruments are possessions of the state. *Webster's New Third International Dictionary* (1966) defines "service": to perform services for; to meet the needs of." The logical corollary which follows then is that the instruments used by the state to draw on its account are processed or serviced by the bank for no charge. And, we do not believe therefore that by itself this sentence manifests any requirement that such instruments be provided as part of the free services.

Additionally we take cognizance of a fundamental rule of statutory construction which provides that absent a clearly manifested legislative intent to the contrary a presumption should be made that commercial terms as used in the statute are to have their normally understood commercial meaning. See *Tyng v. Grinnell*, 92 U.S. 467, 23 L. Ed. 733 (1875); *Arthur v. Morrison*, 96 U.S. 108, 24 L. Ed. 764 (1877); *Swan v. Arthur*, 103 U.S. 597, 26 L. Ed. 525 (1880). See generally, 2A *Sutherland Statutory Construction*, § 47.31. We are advised that commercial banks servicing accounts similar in nature to state active accounts do not normally include the costs of providing checks, drafts or warrants in the normal fee for servicing such accounts. Such costs are usually separate and in addition to the charge for servicing such accounts and are paid by the customer. And, on examination of the state moneys act *in toto* leads this office to the conclusion that the verb "service" is used as a specific term of art recognized by the commercial banking industry and should thus be construed in accordance with what the industry considers the fee for such service should normally entail. Accordingly, it is the opinion of this office that the commercial meaning of the verb "service" should be given controlling weight in light of the above discussed rule and therefore any provision for warrants, drafts and checks should be at the state's expense.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

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