



STATE OF KANSAS

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November 15, 1978

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ATTORNEY GENERAL OPINION NO. 78- 364

Mr. W. Keith Weltmer
Secretary of Administration
Department of Administration
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: State Moneys--Pooled Money Investment Board--Fee Agency
Accounts

Synopsis: Under a contract dated August 14, 1977, between the Pooled Money Investment Board and the Union National Bank of Wichita, Kansas, providing for a fee agency account for the deposit of state monies by Wichita State University, the controlling maximum balance for said account is \$450,000, the amount stated in said contract. K.S.A. 75-4215 does not authorize the Director of Accounts and Reports to prescribe the maximum balance for such accounts, but does authorize the Director to prescribe the minimum balances. The contract in question incorporates by reference instructions and directions of the Director regarding the frequency of remittances from said account.

* * *

Dear Mr. Weltmer:

You advise that pursuant to K.S.A 75-4208 and -4214, the Pooled Money Investment Board entered into a contract, dated August 14, 1977, with the Union National Bank of Wichita, Kansas, whereby the bank agreed to accept and maintain a fee agency account, as that term is defined by K.S.A 75-4201(m), for the daily deposit of state monies by Wichita State University. Section 3 of the agreement provides, in pertinent part, that the "total amount of money which may be on deposit in said account shall not exceed

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at any one time \$450,000 as specified by the State Director of Accounts and Reports."

Under K.S.A. 75-4215 the Director of Accounts and Reports is authorized to direct the frequency of remittance to the state treasurer of moneys deposited in fee agency accounts, and to specify the minimum balance of such accounts. Subsection (c) thereof states in pertinent part thus:

"If authorized by the board, fees, tuition and charges shall be deposited in a fee agency account designated by the board. The same shall be remitted monthly, or more often if required by the director of accounts and reports, to the treasurer by such agency drawing on such fee agency account all moneys therein *except such balance as is specified by such director.*" [Emphasis supplied.]

The Director of Accounts and Reports is thus authorized to establish a minimum balance in such fee agency accounts. You advise that by letter dated January 20, 1978, the Director prescribed a minimum balance of \$200,000 and a maximum balance of \$400,000 for this account, and directed that remittances be made weekly. K.S.A. 75-4215 authorizes the Director to prescribe the minimum balance in such accounts, but not the maximum balance.

You inquire, first, whether the "contractual arrangement made by the Pooled Money Investment Board affect the authority of the Director of Accounts and Reports in establishing the frequency of remittances to the State Treasurer on this particular account. Paragraph 2 of the contract specifies that "[a]ll withdrawals shall be made by wire transfer to a state active account in accordance with procedures and instructions specified by the State Treasurer and the State Director of Accounts and Reports." This contract specifically incorporates such directions and instructions as the Director shall make during its term as to the frequency of withdrawals and remittances, and as a result, does not impinge upon the authority of the Director regarding such withdrawals and remittances.

You ask, secondly, "[w]hat is the current controlling maximum balance, the \$450,000 amount specified in the contract or the \$400,000 amount specified by the Director of Accounts and Reports."

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The cited statute, K.S.A. 75-4215, authorizes the Director to specify the minimum, but not the maximum, balances in such accounts. The contractual specification, \$450,000, clearly governs in this instance.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. James Cobler
Director of Accounts and Reports