



STATE OF KANSAS

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July 6, 1981

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ATTORNEY GENERAL OPINION NO. 81-152

Mr. Roy Kirby
Attorney at Law
P.O. Box 236
Coffeyville, Kansas 67337

Re: Cities and Municipalities--Miscellaneous Provisions--
Investment of Idle Funds; Deposit of Interest Earned

Synopsis: Moneys derived from a tax levy imposed by the county are the property of the county. The county, pursuant to K.S.A. 1980 Supp. 12-1675, may invest any such moneys not immediately required for the purposes for which the moneys were collected or received. Under the provisions of K.S.A. 12-1677, all moneys earned and collected from investments by counties are required to be credited to the general fund of the county. Cited herein: K.S.A. 1980 Supp. 12-1675, K.S.A. 12-1677, K.S.A. 1980 Supp. 19-261, 19-262.

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Dear Mr. Kirby:

As the attorney for Coffeyville Memorial Hospital Medical Center, a municipal hospital, you seek our opinion concerning the proper manner of disbursing interest earned on certain funds invested by Montgomery County, under the provisions of K.S.A. 1980 Supp. 12-1675, et seq., as amended.

You explain that Montgomery County, under the authority of K.S.A. 1980 Supp. 19-261, has contracted with Coffeyville Memorial Hospital and other agencies providing ambulance services in the cities of the county, to provide countywide ambulance service. You further explain that the county, pursuant to K.S.A. 1980

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Supp. 19-262, annually imposes a one mill tax on all taxable property of the county to provide such ambulance services. Additionally, you state that, prior to distribution of the moneys collected from this levy, the county invests the same, earning interest thereon. Finally, you explain that the hospital has now been advised by the county that distribution of the tax money collected will be made on or about July 14, 1981, but the county proposes to retain the interest earned on this money and place it in the county general fund. You assert that since this tax money was "ear-marked" for a specific purpose, i.e., ambulance services, the interest earned on the money must be allocated for the same purpose. You ask if this assertion is correct.

K.S.A. 1980 Supp. 19-261, in relevant part, provides:

"The board of county commissioners of any county . . . may contract with any city, person, firm, or corporation for the furnishing of ambulance services within all or any part of their respective counties upon such terms and conditions, and for such compensation as may be agreed upon which shall be payable from the county general fund." (Emphasis added.)

K.S.A. 1980 Supp. 19-262, in part, provides:

"The board of county commissioners is authorized by resolution to levy a tax for ambulance service purposes and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 1979 Supp. 12-1774, and amendments thereto, by cities located in the county upon all taxable tangible property in such county not in excess of one mill on the dollar of assessed valuation of such property"

From these statutes, it is clear that any moneys derived from the levy authorized by K.S.A. 1980 Supp. 19-262 are the property of the county. The fact a county has contractually obligated itself to pay these moneys from the county general fund to a city, person, firm or corporation for the furnishing of ambulance services does not alter the fact the moneys belong to the county.

Under K.S.A. 1980 Supp. 12-1675, the governing body of any county is permitted to "invest any moneys which are not immediately

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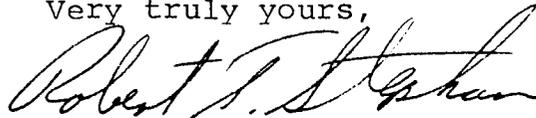
required for the purposes for which the moneys were collected or received." The purpose for which the moneys involved herein were collected and received is to fulfill the county's contractual obligation with an ambulance service to provide such services on a countywide basis. Under K.S.A. 1980 Supp. 12-1675, if moneys collected and received for that purpose are not immediately required for said purpose, the governing body of the county is free to invest those moneys.

In regard to the interest earned on such invested moneys, K.S.A. 12-1677 provides:

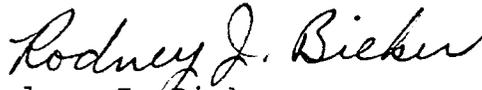
"Except as otherwise required by state or federal law, all moneys earned and collected from investments by counties . . . shall be credited to the general fund of such county . . . by the treasurer thereof"

We find no state or federal law which would supercede the provisions of the above quoted statute in regard to the investment of the moneys involved herein. Therefore, we are of the opinion that all interest earned by the county from the investment of these moneys is required to be credited to the county general fund.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm