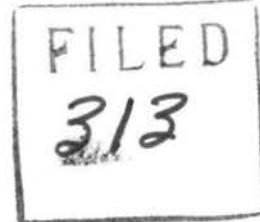


August 20, 1971

OPINION LETTER No. 313  
Answer by Letter - Klaffenbach

Honorable Edna Eads  
Missouri House of Representatives  
112 So. Pine  
Bonne Terre, Missouri 63628



Dear Mrs. Eads:

This letter is in answer to your request for an opinion in which you ask whether a junior college district is required to select depositaries for demand deposits and open time deposits by bids.

We believe that your question is answered by our holding in Opinion No. 177, dated December 20, 1963, to Robert B. Mackey, in which we held in pertinent part as follows:

"In 1937, the year federal laws prohibiting payment of interest upon demand deposits became effective as to deposits of county funds, Section 110.030 RSMo was enacted. In mandatory language, this section expressly provides that 'the various statutory provisions in relation to the advertisement for and receipt of bids and the award of the funds to the best bidder \* \* \* shall be applicable only if and when \* \* \* it shall be lawful for banking institutions to pay interest on demand deposits \* \* \* .'

"Under federal regulations (and Section 362.385, RSMo) it is unlawful for banks to pay interest upon demand deposits. In this situation, Section 110.030 expressly governs, and by its terms suspends all statutory provisions for advertisement for bids and lettings to the highest bidder. We find no provision in this section which limits the suspension of the various statutory provisions as to advertisement for bids to advertisements for demand deposits, or which require such statutory provision to be followed for that portion of deposits which may be placed upon time deposits. To hold that there is such a requirement in the face of the all-inclusive language of the statute would be to exercise legislative functions and rewrite Section 110.030."

Honorable Edna Eads

We note that Section 165.201 RSMo 1969 which is also applicable in this instance contains provisions similar to Section 110.030 RSMo 1969 and allows the selection of depositaries without bids when the payment of interest upon demand deposits is unlawful.

We conclude that the holding in opinion 177-1963 that bids are not required for either demand or time deposits at any time it is unlawful for banks to pay interest on demand deposits is applicable to junior college districts.

Very truly yours,

JOHN C. DANFORTH  
Attorney General