

COUNTY DEPOSITARIES: Rate of Interest to be paid by County Depository
for County funds.

June 1, 1934. 6-19



Hon. John M. Bragg
Prosecuting Attorney
Douglas County
Ava, Missouri

Dear Sir:

Acknowledgment is herewith made of your letter of January 27, 1934, requesting an opinion of this office on the following matter:

"Our county has had no depository for its funds since last May. The County Treasurer has the funds deposited in the only bank we have left in the County. Several weeks since the County Clerk advertised that the County Court would receive bids for a depository for the County funds at our February term of the County Court. We have received no bids and the local bank informs us that it does not intend to make any bid and that it will not pay any interest if the funds are left with it. The bank does inform us that it will give us a bond for the funds if we leave it in that bank. The Banks in the adjoining counties are taking the same position. That is, none of them will pay any interest, they inform us, that they can not pay interest and at the same time have the Government guarantee on their deposits. Now what I would like to know, will the County Court have the right to allow the funds to remain in this bank, with it giving a bond and at the same time not charge the Bank any interest. I would appreciate your opinion at the earliest possible time."

The sections of the statutes pertinent to this question are found in Article IX, Chapter 85, R. S. No. 1929. Section 12188 being applicable to your case reads in part as follows:

"If for any reason the banking corporations, associations or individual bankers in any county shall fail or refuse to submit proposals to act as county depositaries as provided in section 12185, then, and in that case, the county court shall have power to deposit the funds of the county with any one or more of the banking corporations, associations or individual bankers in the county or adjoining counties, in such sums or amounts, and for such period of time, as the court may deem advisable, at such rate of interest, not less than one and one-half per centum, as may be agreed upon by the court and the banker or banking concern receiving the deposit;" * * *

After advertising for bids as provided for in Article IX, and when no bids are received, the County Court shall have the power to deposit the funds of the County with any banking corporation, association or individual banker in your county or adjoining counties. Provided, however, a minimum of 1½% interest is obtained and bond given as provided in said Article.

Apparently from what you say, none of the banks in the neighboring counties desire the money strongly enough to pay interest upon it. In that case the County Court may readvertise for bids and they may designate a bidding bank as the depository even though the interest rate is small or even fractional. The Legislature in writing this Section evidently foresaw that emergencies would arise when funds of the county would be inadequate to form a desirable account or such a time when it would not be profitable for a bank to pay interest, and the Legislature did not set a minimum interest rate when bids were received after advertising.

We cannot find any provision in the statutes that would prevent a County Court from selecting a depository without receiving interest, provided, however, that a written bid or offer is made in response to an advertisement for bids and a bond given and all statutory requirements are fulfilled. We have been unable to find any decisions in this State which might assist us.

Hon. John M. Bragg.

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CONCLUSION.

When banks fail or refuse to submit proposals to act as county depositaries the County Court may select any bank or banks in the county or adjoining counties, provided however, that the interest rate be not less than $1\frac{1}{2}\%$, or the County Court may re-advertise for bids at the next term and may in their discretion accept bids for depositaries and let the county funds without the payment of interest, but of course, with the requisite bond being given, and for a term not longer than to the next regular time for advertising for bids.

Respectfully submitted,

Covell R. Hewitt,
Assistant Attorney General.

APPROVED:

ROY MCKITTRICK,
Attorney General.

CRH:MM