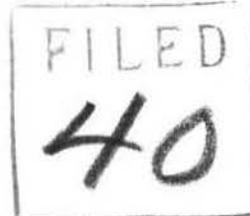


COUNTIES:  
COUNTY REVENUE:  
COUNTY FUNDS:  
INTEREST:

Interest paid by a bank for courthouse bond sinking fund deposits must accrue to the fund itself and cannot be used as general revenue by the county.

January 29, 1965

Opinion No. 40 (1965)  
425 (1964)



Honorable Don W. Owensby  
Prosecuting Attorney  
Dallas County  
Buffalo, Missouri

Dear Mr. Owensby:

This is in response to your request for an opinion wherein you inquire if interest earned by placing the courthouse bond sinking fund in time deposits may be regarded as general revenue to the county.

For the reasons stated below, we are of the opinion that interest so derived must accrue to the sinking fund for which it was paid.

Section 108.180, RSMo 1959 provides, inter alia, that the proceeds of each county bond issue ". . . and all moneys derived by tax levy, or otherwise, for interest and sinking fund provided for the payment of such bonds, shall be kept separate and apart from all other funds of such governmental unit, . . . nor shall such interest and sinking fund be used for any purpose other than to meet the interest and principal of such bonds; . . ." (Emphasis added).

Thus it is seen that money coming to the fund by taxation "or otherwise" must remain in the fund. Certainly this could be construed to include interest earned by depositing the fund in a bank. While the fund is there, interest is paid by the bank in exchange for the use of the money. If the interest is not deemed to accrue to the fund but is paid into the general revenue of the county then there would be a breach of the second part of the statute above quoted which says that the fund cannot be used for "any purpose other than to meet the interest and principal of such bonds."

In other words, to put the fund out at interest to earn money for the general benefit of the county or for some specific purpose such as building a bridge, etc., would be to use the fund for a purpose other than that for which it was intended - this is prohibited.

Honorable Don W. Owensby

The Supreme Court of Oklahoma has arrived at a similar conclusion in Roberts v. Board of Education, Okla., 33 P (2d) 496, 498.

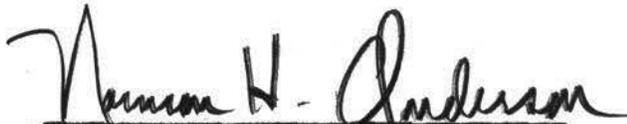
In Hays v. Isaacs, 120 SW2d 737, the Kentucky Court of Appeals held that such sinking funds are held in ". . . trust for the benefit of the holders of the bonds and must be administered with that object in view." We regard this as a sensible statement of an obvious truth. Such being the case then, surely, the fund could only be invested to earn money for its own retirement or some other purpose for which it was created.

#### CONCLUSION

Interest paid by a bank for courthouse bond sinking fund deposits must accrue to the fund itself and cannot be used as general revenue by the county.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Howard L. McFadden.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General