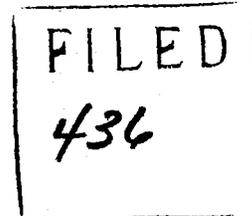


SCHOOLS:
INTEREST:
BONDS:
SCHOOL BONDS:

The highest rate of interest payable on general obligation school bonds issued by common, six-director, urban or metropolitan school districts in this state is eight per cent per annum.

OPINION NO. 436

October 9, 1969



Honorable Haskell Holman
Auditor of the State of Missouri
State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Holman:

This is in response to your request for an opinion from this office concerning the highest rate of interest allowable on general obligation bonds issued by common, six-director, urban or metropolitan school districts.

Sections 164.121, 164.131, and 164.141, RSMo Supp. 1967, set forth the purposes for which general obligation bonds can be issued by such school districts in this state. Section 164.161, RSMo Supp. 1967, provides:

"1. The loans authorized by sections 164.121 to 164.141 shall not be contracted for a longer period than twenty years, and the entire amount of the loans shall at no time exceed, including the present indebtedness of the district, in the aggregate ten per cent of the value of taxable tangible property therein as shown by the last completed assessment for state and county purposes. The rate of interest upon the bonds shall, in no case, exceed the highest legal rate allowed by contract. Before or at the time of issuing the bonds, the board of directors shall provide for the collection of an annual tax sufficient to pay the interest and principal of the bonds as they fall due, and to retire them within twenty years from date contracted."

Section 108.170, RSMo Supp. 1967, provides:

Honorable Haskell Holman

"Any and all bonds hereafter authorized to be issued under any law of this state by any county, city, town, village, school district, or other municipality, political subdivision or district of this state, except as otherwise provided in sections 164.121 to 164.301, RSMo, for school districts, may bear interest at a rate not exceeding six per cent per annum, and may be sold, at any sale pursuant to any law applicable thereto, at the best price obtainable, not less than ninety-five per cent of the par value thereof, anything in any proceedings heretofore had authorizing such bonds or in any law of this state to the contrary notwithstanding." (emphasis added)

Since §164.161, RSMo Supp. 1967, falls within this exception clause, a determination of the highest rate of interest allowable on a general obligation school bond involves interpretation of the following sentence: ". . . The rate of interest upon the bonds shall, in no case, exceed the highest legal rate allowed by contract. . . ."

In Missouri, parties may not agree to the payment of interest on money due or to become due upon any contract in an amount exceeding eight per cent per annum. See §408.030, RSMo 1959. It is our opinion that the phrase "highest legal rate allowed by contract" in §164.161 refers to that rate of interest allowable when two parties enter into a written agreement for the payment of interest on money due or to become due upon any contract.

We call your attention to House Bill 2 of the First Extra Session of the 75th General Assembly which was enacted with an emergency clause. Such bill, if approved by the Governor, will become effective on the date of approval if such emergency clause is valid. Such bill deletes the provision in Section 108.170 underlined above and provides that general obligation bonds of the municipalities, political subdivisions, and districts listed in such section shall bear interest at not exceeding six per cent per annum but that such bonds may bear interest at not exceeding eight per cent per annum if sold at public sale after giving reasonable notice of such sale.

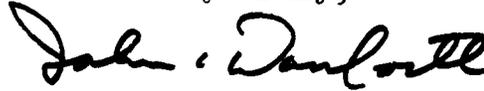
CONCLUSION

Therefore, it is the opinion of this office that the highest rate of interest payable on general obligation school bonds issued by common, six-director, urban or metropolitan school districts in this state is eight per cent per annum.

Honorable Maskell Holman

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard L. Wieler.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth". The signature is written in dark ink and is positioned above the typed name.

JOHN C. DANFORTH
Attorney General