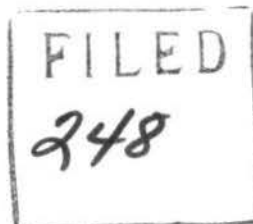


August 8, 1973

OPINION LETTER NO. 248

Honorable James I. Spainhower
Treasurer of the State of Missouri
State Capitol Building
Jefferson City, Missouri 65101



Dear Mr. Spainhower:

You recently asked this office whether you must comply with Section 6, subsection 1 of House Substitute for House Bill No. 65 of the Seventy-Seventh General Assembly which requires the State Treasurer to establish a special trust fund to be known as the "Transportation Sales Tax Trust Fund." Under the provisions of the above-cited bill, this fund would receive the sales tax proceeds levied for the benefit of the Bi-State Transportation Authority.

The provision in question is substantially identical to similar language used in the City Sales Tax Act enacted by the Seventy-Fifth General Assembly as House Committee Substitute for House Bill No. 243. In Opinion No. 110-1970, this office ruled that to the extent that the legislation imposes duties upon the Treasurer to retain custody of and to disburse non-state funds, the Act is unconstitutional. That opinion also stated that the Director of Revenue of the State of Missouri was responsible for the initial retention and disbursement of the sales tax proceeds collected.

It is the opinion of this office that Opinion No. 110-1970 compels the conclusion that you must disregard the provisions of Section 6, subsection 1 of House Substitute for House Bill No. 65 of the Seventy-Seventh General Assembly insofar as they attempt to require your office to establish a special trust fund for sales tax proceeds collected pursuant to the authority granted by House Substitute for House Bill No. Sixty-Five of the Seventy-Seventh General Assembly.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Encl: Op. 110-1970