

DEPOSITORIES:) Depositories must be selected in the statutory
ELEMOSYNARY BOARD:) manner, notwithstanding no interest payable
after August 23, 1937, under Federal law and
regulations. *

June 10, 1937. 6-11



Honorable W. Ed. Jameson
President Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Mr. Jameson:

This is to acknowledge your letter of June 4, 1937, relative to the selection of depositories for the funds of the Eleemosynary Board. Your letter is as follows:

"I think you will find under the Missouri law the Eleemosynary Board is required to advertise every two years for the deposit of our funds in the banks in the towns in which the institutions are located.

"I am also advised that the 1936 Federal Banking Law prohibits the banks from paying any interest on daily balances.

"I had sent out notices yesterday to be published for the deposit of these funds, but I have recalled notice today until I can get an opinion from your office in regard to same. It does not seem wise to me for the state to pay out \$75.00 or \$100.00 to advertise for the depository for these funds when the banks are prohibited, by the federal law, from paying out any interest.

"Will you kindly furnish me with an opinion as to what I should do under these circumstances."

Under the provisions of Section 8676, R. S. Mo. 1929, it is the duty of all boards of managers * * * who have the management of any state institutions, having the custody of any funds, on or before the first Monday of July of each odd-numbered year to receive sealed proposals from banking corporations, associations, trust companies or individual bankers in any city, town or county in which any such institutions may be located which may desire to be selected as depositories of the moneys and funds of such institution, and it is further provided that "notice that such bids will be received shall be published by the secretary of the board at least twenty days before the meeting at which such depository is to be selected in some newspaper published in said city, town or county at least once in each week."

The succeeding sections, namely, 8677, 8678, 8679, 8680 and 8681 provide the method and manner of the selection of such depositories, the rate of interest, the bond to be filed with the secretary of the board by the depository, and all of the machinery necessary in the selection of said depository is set out in the above sections. These sections of the statute are in force and effect and they stand necessarily as the law at the present time, and it is our opinion that you are without authority to proceed in any other manner than as provided by these sections of the statute.

It is true that after August 23, 1937, all member banks of the Federal Reserve System will be prohibited from paying interest upon deposits of money, public or private, payable on demand; and also, under regulations of the Federal Deposit Insurance Corporation, insured banks or trust companies will then be prohibited from paying interest on such funds. So, there is nothing at this time to prevent such banks from paying interest until said date.

The 59th General Assembly which adjourned June 8, 1937, by Senate Bill No. 97, which has been approved by the Governor, added a new section to Article 2, Chapter 34, relating to banks, numbered 5388a, and by Senate Bill No. 123 added a new section to Article 3, Chapter 34, R. S. Mo. 1929, relating to trust companies, to be known as Section 5459a, forbidding

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all state banks and trust companies paying interest upon deposits of moneys, public or private, payable on demand, at a rate in excess of the then current rate of interest authorized by the laws of the United States of America or by regulations issued under authority of such laws, to be paid on such deposits by member banks of the Federal Reserve System or by banks whose deposits are insured by the Federal Deposit Insurance Corporation.

These new statutes will preclude the payment of interest by all banks and trust companies on public funds, payable on demand, so long as the member banks of the Federal Reserve System are prohibited by Federal law from paying interest, and banks and trust companies, whose deposits are insured by the Federal Deposit Insurance Company, are prohibited from paying interest by regulations under authority of the Federal law.

Senate Bill No. 124, providing for the manner of securing deposits of the various state and political subdivisions and boards and institutions having control of public funds, has materially changed the law relative to the securing of public funds by pledging certain designated securities, but this law, as well as Senate Bills Nos. 97 and 98, does not become effective until ninety days after the adjournment of the Legislature, namely, September 6th, 1937.

It is, therefore, our opinion that in the selection of the depositories for the public funds under the jurisdiction of your board, that you should proceed in the statutory manner and we are unable to advise you not to proceed in the manner as provided by the statutes in the selection of said depositories.

Very truly yours,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
(Acting) Attorney-General