

1979 S.C. Op. Atty. Gen. 204 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-128, 1979 WL 29130

Office of the Attorney General

State of South Carolina

Opinion No. 79-128

November 14, 1979

***1 SUBJECT: Funds of Political Subdivisions—Custody of the Same**

(1) A monthly deposit to the account of the Greenville County School District is made by the county treasurer. The amount of the deposit is for current expenses and the funds otherwise are to be held by the treasurer.

(2) Revenue from taxation for the Greater Greenville Sanitation District is to be paid by the county treasurer to the claimant upon presentation of a proper warrant. Funds above such needs are to be held by the treasurer.

(3) Operating revenue of the Taylors Fire and Sewer District is to be deposited and expended by the commission. Funds from bond issues and taxes are to be held by the county treasurer and payments therefrom are to be made by the treasurer upon warrant of the commission to the claimants.

(4) The Wade Hampton Fire District has authority to deposit and expend operating revenue. The funds from bond issues and the tax levy are to be held by the county treasurer and disbursed upon proper warrant to the payee.

TO: Honorable J. Leon Rampey, Representative
District No. 28
Greenville County

QUESTION:

Do the below named political subdivisions of the State have authority to withdraw tax funds from the county treasurer in excess of current needs and to invest the same?

APPLICABLE LAW:

See discussion for each division. Also §§ 12-45-220, 12-45-230, 11-15-210, 11-15-240, 11-1-60 and 6-5-10.

DISCUSSION:

1. The Greenville County School District—Section 59-17-10 of the 1976 Code establishes the district as a body corporate and politic. Act 1258, Acts of 1974, provides that:

‘Once each month, upon written request from the school district signed by the chairman or vice-chairman of the board of trustees, the secretary or one other member of the board of trustees, the superintendent or his designee, and the chief fiscal officer of the district or his designee, the Treasurer of Greenville County shall deposit in an approved depository funds necessary for payment of anticipated current claims against the school district. This sum shall be taken from the proceeds of tax levies for school purposes. The funds so deposited shall be used for the payment of current claims against the school district and may be disbursed by checks drawn thereupon in the manner prescribed by the board of trustees of the school district of Greenville County.’

The term 'current expenses' is not defined, however, as here used it means the expenses that are to mature and be payable before the next monthly deposit. (See Words and Phrases, Vol. 10A, Current Expenses, and Webster's New Collegiate Dictionary.)

Other than as stated above the treasurer is the custodian of the school funds from property taxation and those remitted by the State. (See also §§ 59–21–130, 59–21–370 and 59–69–240.)

CONCLUSION:

A monthly deposit to the account of the Greenville County School District is made by the county treasurer. The amount of the deposit is for current expenses and the funds otherwise are to be held by the treasurer.

*2 2. Greater Greenville Sanitation District—Act 761, Acts of 1971, and Act 684, Acts of 1969, provide that the district is to be governed by a commission. Its powers in the 1971 Act include authority:

'Section 3. * * *.

(f) To expend for the purpose of performing the duties and functions herein provided, all monies received through the direct collection by the commission of fees, from taxes and fees received from the county treasurer, or otherwise;'

'Section 4. The operation of the district shall be financed by sums received from the following sources:

(a) The county auditor shall levy and the county tax collector shall collect from each property owner an annual tax of the number of mills directed by the commissioners, subject to the approval by the Greenville County Council * * *. The county treasurer shall keep the taxes so collected in a separate fund applicable solely for the use of the district;'

The acts do not provide the method of payment of claims by the treasurer and it should be noted that the treasurer is a ministerial office. O'Shields v. Caldwell, 207 S.C. 194, 35 S.E.2d 184. The treasurer is a trustee of public funds and the office in that respect is fiduciary in character. Anderson County v. Griffin, 164 S.C. 75, 161 S.E. 875.

It is a well-settled rule of construction that statutes relating to the same subject are to be construed together in order to ascertain legislative intent.

'Different statutes in pari materia, though enacted at different times, and not referring to each other, must be construed together as one system and as explanatory of each other.' Fishburne v. Fishburne, 171 S.C. 408, 172 S.E. 426. (For other cases see 17 S.C.D., Statutes, § 223, et seq.)

Under this rule consideration must be given to the following statutory provisions: Section 6–5–10 that authorizes the governing body of the district and the county treasurer to invest funds subject to their control and jurisdiction; Section 6–5–20 that authorizes the governing body to delegate to the treasurer or other financial officer or any fiscal agent or corporate trustee charged with custody of the funds the full responsibility to invest the funds; Section 6–11–270 that provides a procedure for the disbursement of special purpose district funds upon proper approval of the governing body. This section contemplates the withdrawal for payment of the claims and not for custody of the funds.

All of the sections infer that payment of claims are to be made by the treasurer upon proper warrant and not the withdrawal of the funds by the district for subsequent payment by the district. Only a judicial decree or clarifying legislation, however, will conclusively resolve this issue.

CONCLUSION:

Revenue from taxation for the Greater Greenville Sanitation District is to be paid by the county treasurer to the claimant upon presentation of a proper warrant. Funds above such needs are to be held by the treasurer.

*3 3. Taylor's Fire and Sewer District—Created a body corporate and politic by Act 1099, Acts of 1958. It is governed by a commission that has authority to:

'Section 3. * * *.

5. Deposit moneys derived from revenue-producing facilities, and to withdraw the same for the purpose of operating and maintaining such facilities.

19. Issue, under the conditions prescribed by paragraph 21 of this section, *infra*, general obligation bonds of the district in the amount of not exceeding two hundred seventy-five thousand dollars.

21. The commission, on behalf of the district, shall be empowered to issue not exceeding two hundred seventy-five thousand dollars of general obligation bonds of the district, whose proceeds shall be used to defray the costs of constructing and establishing a water system or sewer system, or both, in the district. * * *. All or any general obligation bonds issued pursuant to this paragraph may be additionally secured by a pledge of the net revenues to be derived from the operation of any revenue-producing facility operated and maintained by the district.

(e) There shall be irrevocably pledged for the payment of the bonds and interest, as the same mature, the full faith, credit and resources of the district and the Auditor and Treasurer of Greenville County, respectively, are hereby authorized and directed to levy and collect annually a tax upon all taxable property within the district sufficient to pay the bonds and interest as they respectively mature, and to create such sinking fund as may be necessary for the redemption of the bonds and interest at their respective maturities. * * *.

(g) The proceeds derived from the sale of such bonds shall be deposited with the Treasurer of Greenville County in a separate and special fund and shall be expended upon the warrants or orders of the commission for the purposes specified herein, * * *. (Emphasis added).

24. The commission is vested with the power to raise funds for discharging the duties vested in it by levying a tax therefor. The commission shall notify the auditor and treasurer of any desired tax, whereupon they shall assess and collect the tax as requested and the treasurer shall hold the funds and disburse them as directed by the commission. * * *.' (Emphasis added)

CONCLUSION:

Operating revenue of the Taylor's Fire and Sewer District is to be deposited and expended by the commission. Funds from bond issues and taxes are to be held by the county treasurer and payments therefrom are to be made by the treasurer upon warrant of the commission to the claimants.

4. Wade Hampton Fire District—Created a public corporation by Act 854, Acts of 1954, it is governed by a commission that has authority to:

'SECTION 3. * * *.

5. Deposit moneys derived from revenue-producing facilities, and to withdraw the same for the purpose of operating and maintaining such facilities.

21. The commission, on behalf of the district, shall be empowered to issue not exceeding four hundred thousand dollars of general obligation bonds of the district, * * *.

*4 (e) There shall be irrevocably pledged for the payment of the bonds and interest, as the same mature, the full faith, credit and resources of the district and the Auditor and Treasurer of Greenville County, respectively, are hereby authorized and directed to levy and collect annually a tax upon all taxable property within the district sufficient to pay the bonds and interest as they respectively mature, and to create such sinking fund as may be necessary for the redemption of the bonds and interest at their respective maturities. * * *.

(g) The proceeds derived from the sale of such bonds shall be deposited with the Treasurer of Greenville County in a separate and special fund and shall be expended upon the warrants or orders of the commission for the purposes specified herein, and no others, * * *.

24. The commission is vested with the power to raise funds for discharging the duties vested in it by levying a tax therefor. The commission shall notify the auditor and treasurer of any desired tax, whereupon they shall assess and collect the tax as requested and the treasurer shall hold the funds and disburse them as directed by the commission. * * *.'

CONCLUSION:

The Wade Hampton Fire District has authority to deposit and expend operating revenue. The funds from bond issues and the tax levy are to be held by the county treasurer and disbursed upon proper warrant to the payee.

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