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April 7, 1954
Opinion No. 54-57
GENERAL

TO: The Honorable William P. Mahoney, Jr.
Maricopa County Attorney
Court House
Phoenix, Arizona

RE: Investment of proceeds of bond
sales pursuant to the provisions
of 54-423 and 54-426 A.C.A.
1939, as amended.

QUESTION: (1) Does Section 54-423 A.C.A.
1939, require that the County
Treasurer, as custodian of bonds,
actually take the bonds into his
possession, or may he receive a
bank receipt for the deposit of
the bonds in such bank's vaults?

(2) In view of the titles of
Section 54-423 and 54-426 A.C.A.
1939, as amended, are the provi-
sions of Section 54-426 A.C.A.
1939, as amended, exclusive as
to the investment of bond proceeds?

(3) If the provisions of 54-426
A.C.A. 1939, as amended, are appli-
cable to the investment of bond
proceeds, is it necessary that the
mechanics of section 54-423 be
followed as to the custody of the
bonds?

Question number one requests our determination as to whether
the provisions of Section 54-423 A.C.A. 1939, as amended, require
that the County Treasurer, as custodian of bonds, take and maintain
physical possession of the said bonds, or deposit such bonds in a
bank vault, accepting a bank receipt for such deposit.

Section 54-424, A.C.A. 1939, provides as follows:

"54-424. Interest to be paid and securities
delivered to county treasurer.--All money due as

interest upon investments or deposits shall be paid to the county treasurer, and all securities taken for investments and deposits shall be in the name of the county in which any such school district is located, as principal, and shall be delivered to the county treasurer for safe-keeping."

In the field of legislative interpretation, it is elementary that amendments are to be construed together with the original act to which they relate as constituting one law, part of a coherent system of legislation. 82 Corpus Juris Secundum, Statutes, Section 384.

The provisions of Section 54-424, supra, therefore, enable us to ascertain the intent of the legislature as to the meaning of the words, "custodian of bonds". The custody of the treasurer referred to in Section 54-423 A.C.A. 1939, as amended, is actual physical possession of the bonds or other securities involved.

In answering questions number two and three, it is necessary that we interpret sections 54-423, and 54-426 A.C.A. 1939, as amended. Section 54-423 A.C.A. 1939, as amended, provides as follows:

"54-423. Investment of sinking fund or contingency reserve fund.--The board of trustees of a school district, with the consent of the board of supervisors, shall deposit or invest all money belonging or credited to the district as a sinking fund, or as proceeds of the sale of a bond issue not required for use within three months. The deposit or investment shall be made for the best interests of the district. The deposit may be made in any bank of the state at the highest rate of interest obtainable, and shall be secured by the bank by readily negotiable interest bearing United States, state, county, school district, or municipal bonds in an amount not less than the amount of the deposit; or such funds may be invested in readily negotiable interest bearing United States, state, county, school district or municipal bonds, all of which, except United States bonds, shall have been issued within the state, on which the payment of interest has not been deferred. The purchase shall be made by the county treasurer upon the order by resolution of the board of trustees, approved by the board of supervisors. The county treasurer shall be the custodian of

all bonds so purchased. The deposit may be withdrawn, or the bonds sold, upon an order of the board of trustees with the consent of the board of supervisors. All money earned as interest or otherwise derived by virtue of the provisions of this section shall be deposited to the credit of the sinking fund or the contingency reserve fund, as the case may be."

Section 54-426 A.C.A. 1939, as amended, provides as follows:

"54-426. Deposit or investment of surplus money. Whenever bonds have been sold and the proceeds are not required to be used for a period of three months or more, the board of supervisors shall, with the consent of the board of trustees of the school district, cause the money not required for use within three months to be deposited in a bank at the highest rate of interest obtainable, or invested in readily negotiable interest bearing United States, state, county, school district, or municipal bonds, all of which, except United States bonds, have been issued within the state, and on which the payment of interest has not been deferred."

The above quoted sections must be interpreted together so as to give effect to all their provisions and to arrive at a harmonious and consistent effect without doing violence to the legislative intent. MAYOR AND CITY COUNCIL OF THE CITY OF PRESCOTT vs RANDALL, 67 Arizona 369, 196 P. 2d 477.

At first blush, it appears that there is some conflict between the above quoted sections. A careful examination, though, reveals that they are, in reality, quite compatible.

Section 54-423, provides that the board of trustees deposit or invest the proceeds of sinking funds and bond sale proceeds not required for use within three months. It allows for their investment in a number of ways. Section 54-426, supra, speaks only of the investment of proceeds of bond sales, but is identical insofar as it deals with sources of investment except that deposits in banks are not required to be secured. It places a responsibility upon the board of supervisors to cause the said proceeds to be deposited. This seems to contradict Section 54-423, supra, which requires that the board of trustees shall deposit or invest proceeds of

the sale of bonds as well as the money of the sinking fund. Section 54-426, supra, however, requires only that the board of supervisors shall cause the bond proceeds to be invested or deposited whereas Section 54-423, supra, provides that the board of trustees do the actual depositing or investing. These two sections are, therefore, compatible and not contradictory. This interpretation allows us to give full effect to all the provisions concerning investment of school funds.

It is our opinion that Section 54-423, supra, prescribes the method of investing or depositing sinking fund monies and proceeds from the sale of bond issues and should be followed scrupulously. Section 54-426, supra, merely directs the board of supervisors to see to it that proceeds from the sale of bonds be invested or deposited. Therefore, the provisions of 54-426 are not exclusive as to the investment of bond proceeds.

Question number three, as question number one, requires us to refer to the provisions of Section 54-424, supra. Since Section 54-424, supra, is a part of the original act pertaining to investment of school district funds and Section 54-423 and 54-426, supra, are amendments thereto, we believe it only proper that they should be interpreted together. The provisions of Section 54-424, supra, are definite and mandatory and not having been repealed by the provisions of the amendatory sections, are still in effect. Therefore, the mechanics of Sections 54-423 and 54-424, supra, pertaining to the custody of securities and bonds apply also to the investment of the proceeds of school bond sales.

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