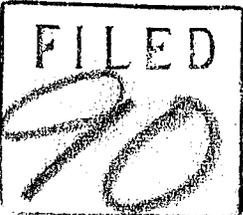


COUNTIES:  
COUNTY COURTS:  
REVENUE BONDS:  
HOSPITALS:  
COUNTY HOSPITALS:

Money derived from the sale of bonds authorized by a special election must be used for the specific purpose stated on the ballot and for no other.



November 17, 1955

Honorable Jimmie B. Trammell  
Prosecuting Attorney  
Stoddard County  
Bloomfield, Missouri

Dear Sir:

Your letter of November 12, 1955, requesting an opinion of this office, reads, in part, as follows:

"I would like to request an opinion from your office concerning the status of bond money voted for the purpose of building a community hospital. I wrote your office earlier this month concerning this matter, but apparently did not arrive for some reason.

"Stoddard County is now discussing the proposition of voting on bonds to build a community hospital and the question came up as to whether this money could be touched by anyone holding outstanding obligations of the County, or whether it could be used only for the purpose of building a hospital."

At the outset, Section 205.160, RSMo 1949, authorizing the establishment of county hospitals by the issuance of bonds, should be noted:

"The county courts of the several counties of this state are hereby authorized, as provided in sections 205.160 to 205.340, to establish, construct, equip, improve, extend, repair and maintain public hospitals, and may issue bonds therefor as authorized by the general law governing the incurring of indebtedness by counties."

Honorable Jimmie B. Trammell

The "general law" in regard to county indebtedness is in turn governed by Article VI, Section 29, Missouri Constitution, 1945, which provides:

"The moneys arising from any loan, debt, or liability contracted by the state, or any county, city, or other political subdivision, shall be applied to the purposes for which they were obtained, or to the repayment of such debt of liability, and not otherwise."

Chapter 108, RSMo 1949, contains numerous provisions clarifying this constitutional requirement that the money authorized by a bond election be applied only to the purpose for which it was voted.

Section 108.110. "The moneys derived from the sale of such bonds shall be deposited in the county treasury, and the county clerk shall charge the treasurer therewith. And the said moneys shall be drawn from the treasury upon the order of the court for the purposes for which the bonds were issued."

Section 108.180. "When any bonds shall have been issued by any county, city, incorporated town or village, school district, or other political corporation or subdivision of the state, as provided under the constitution and laws of this state for the incurring of indebtedness, or for refunding, extending, unifying the whole or any part of their valid bonded indebtedness, the proceeds from the sale thereof and all moneys derived by tax levy, or otherwise, for interest and sinking fund provided for the payment of such bonds, shall be kept separate and apart from all other funds of such governmental unit, so that there shall be no commingling of such funds with any other funds of such county, city, incorporated town or village, school district, or other political corporation or subdivision of the state, provided, that in no case shall the proceeds derived from the

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sale of any such bonds be used for any purpose other than that for which such bonds were issued, nor shall such interest and sinking fund be used for any purpose other than to meet the interest and principal of such bonds; provided further, that any bonds or money remaining in the interest and sinking fund of any such county, city, incorporated town or village, school district, or other political corporation or subdivision of the state, after the extinction of the indebtedness for which such bonds were issued, shall be paid into the general revenue fund of such county, city, incorporated town or village, or other political corporation or subdivision, and into the building fund of such school district."

Section 108.190. "The county court or the governing authorities of any city, incorporated town or village, school district, or other political corporation or subdivision of the state, or any comptroller, collector or treasurer of any such county, city, incorporated town or village, or other political corporation or subdivision of the state, who shall fail to carry out the provisions of section 108.180, or violate any of the provisions thereof, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment."

Section 108.230. "All money collected and all securities purchased or held belonging to the interest and sinking fund of any county, city, incorporated town or village, school district, or other political corporation or subdivision of the state, shall be exempt from attachment and execution. Such money and securities shall be exempt from being levied upon, taken, sequestered, or applied toward paying the debts of any such county, city, incorporated

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town or village, school district, or other political corporation or subdivision of the state, other than for payment of the indebtedness for which such funds and securities were provided. The money and securities so held shall be deemed to be an inviolable sinking fund for the purpose of extinguishing the indebtedness for which such fund had been levied and collected."

Moreover, numerous Missouri cases have emphasized the fact that the county is, in effect, the custodian of trust funds. In *Stephens v. Bragg City*, 224 Mo. App. 469, 27 S.W. 2d 1063, at page 1064, the court stated:

"\* \* \*This money did not belong to the general revenue fund of the city. It was the product of bonds voted by the people of the city to secure money for a specific purpose, and when the bonds were issued and sold the money received thereby could not legally be used by the city for any other purpose. The city authorities had no power under the law to transfer this money to the general revenue fund of the city and use it to pay ordinary debts of the city.\* \* \*"

See, in addition, *Thompson v. St. Louis, Mo. Sup.*, 253 S.W. 2d 969, *Meyers v. Kansas City*, 323 Mo. 200, 18 S.W. 2d 900, *City of St. Louis v. Senter Commission Co.*, 337 Mo. 238, 85 S.W. 2d 21.

#### CONCLUSION

It is, therefore, the opinion of this office that the money derived from the sale of bonds authorized by a special election must be used for the specific purpose stated on the ballot and for no other.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Walker La Brunerie, Jr.

Very truly yours,

John M. Dalton  
Attorney General

WLaB:hw