

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. 86-93 + 28

August 22, 1986

SUBJECT: Taxation & Revenue - Custody and Disbursement  
Of School Funds.

SYLLABI: I. When school district funds are disbursed by the county treasurer to the school district as provided by § 59-69-215, the school district, thereafter, has the duty and responsibility to expend and account for the same.

II. When school funds are disbursed under § 59-65-215, the school district must annually advise the county auditor of the tax revenue needed to satisfy bond debt. The auditor is to levy the tax therefor and the treasurer is to collect the same.

TO: Honorable Samuel R. Wooten  
Superintendent  
The School District of Edgefield County

FROM: Joe L. Allen, Jr. *JLA*  
Chief Deputy Attorney General

QUESTION: Upon request of the governing body of a school district and with concurrence by the governing body of the county, the county treasurer is to disburse "any" school district funds to the school district. The inquiry is the custody and disbursement authority over such funds including those held for bond debt retirement. An ancillary question is the responsibility of the county auditor and treasurer to levy and collect taxes to pay the bond debt as it matures.

APPLICABLE LAW: Sections 59-69-215, 59-71-150 and 59-21-420, Code of Laws of South Carolina, 1976.

DISCUSSION:

County treasurers are generally the collectors, custodians and disbursing officers of school district funds. (See opinions of April 5, 1978, May 26, 1978 and OAG 78-163, 1978 p. 193). The treasurer, however, has those powers as

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provided by the General Assembly Bank of Johnston v. Prince,  
136 S.C. 439, 134 S.E.387.

School districts are bodies politic and corporate, and as the treasurer, their authority is granted or controlled by the General Assembly.

"School Districts have no inherent right of local self-government which is beyond legislative control, . . . ." Nesbitt v. Gettys, 219 S.C. 221 64 S.E.2d 651.  
(See also 16 S.C.D. Schools & School Districts, Key 20, et seq.)

A school district is authorized by Chapter 71 of Title 59 to issue bonds. Section 59-71-150 pledges the full faith and credit of the district for repayment. The county auditor is directed to levy and the treasurer to collect a tax sufficient to pay the bonded debt and interest as the same matures and to create a sinking fund therefor. The Section is the tax levy and no action is required by the school district thereon. (See OAG, March 20, 1985 and August 11, 1986, copies of which are appended.)

The General Assembly by Act 417, Acts of 1982, now codified as § 59-69-215, directed the county treasurer to disburse to the school districts any funds of the school district needed for its operation. The districts must, however, request the same and the county governing body must concur in the request. In an opinion of February 23, 1983, this office concluded that the disbursement included the funds collected for bond debt payments. (See OAG February 23, 1983, copy of which is appended.) The school district is further authorized by the section to:

"Maintain its own bank account for the purpose of making disbursements for payment of expenses approved by the governing body of the district."

The district may also invest funds not needed for immediate "disbursement". It is thus evident that when applicable, the 1982 Act modified the treasurer's duty and responsibility concerning the custody and disbursement of school district funds. The treasurer's duty and responsibility of the funds paid over to the school district ends upon the disbursement. The duty to pay the bonded debt and maintain the sinking fund would, likewise under such

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circumstances, be that of the school district. It would not be logical to require the treasurer to disburse funds for bond debt payment when such funds would be in the custody and control of the school district.

CONCLUSION:

I. When school district funds are disbursed by the county treasurer to a school district as provided by § 59-69-215, the school district, thereafter, has the duty and responsibility to expend and account for the same.

An ancillary issue is raised. The same is the duty under § 59-71-150 of the county auditor to levy and the county treasurer to collect a tax sufficient to pay the maturing bond debt and interest and the sinking fund therefor. Because of the provision of § 59-21-420, the amount of taxes needed for that purpose will not be known by the county auditor or treasurer. That section provides for the distribution of certain state funds which must in part be used to retire bond debt. Because the amount of such funds to be applied to bond debt is not known by the county auditor or treasurer, it is necessary that the school district timely advise those officers of the amount of state funds to be applied to the bonded debt. Upon receipt of that information, the auditor can calculate the millage and enter the tax upon the tax duplicate.

CONCLUSION:

II. When school funds are disbursed under § 59-65-215, the school district must annually advise the county auditor of the tax revenue needed to satisfy bond debts. The auditor is to levy the tax therefor and the treasurer is to collect the same.

JLAJr/jws