

1982 S.C. Op. Att. Gen. 28 (S.C.A.G.), 1982 S.C. Op. Att. Gen. No. 82-25, 1982 WL 154995

Office of the Attorney General

State of South Carolina

Opinion No. 82-25

April 14, 1982

***1 SUBJECT: Deposit of Public Funds**

The County Treasurer is the county officer responsible for the deposit and custody of county funds and in the absence of clear provision otherwise, designates the depository to be used.

To: W. Jerry Fedder, Esquire
Oconee County Attorney

QUESTION:

Recognizing that under the current South Carolina statutory law, the Treasurer of Oconee County is the designated custodian of all County funds, does Oconee County Council have the authority to designate one or more banking institutions doing business in the County as the official depository of such funds, and to require the Treasurer to use such facility or institution as the 'designated depository' of the County?

APPLICABLE LAW:

§§ 4-9-30, 6-5-10, 11-3-180, Title 12, Chapter 45, §§ 4-9-130(7) and 4-9-430 of the 1976 Code of Laws.

DISCUSSION:

It must first be stated that no statutory provision has been found that provides specific authority to designate the depository of public funds. It would thus be necessary to adjudicate the issue for a conclusive resolution.

The powers of the governing body are subject, however, to 'the general law of this State', Section 4-9-30. Subsection (8) of the section provides power to the governing body:

'to provide for an accounting and reporting system whereby funds are received, safely kept, allocated and disbursed.'

The General Assembly in § 11-3-180 provides that:

'The Comptroller General shall prescribe the system of bookkeeping to be used by the officers of the governing bodies of counties, county boards of education, county treasurers and county auditors of the State so that they shall be uniform * * *.'

These provisions must be construed together.

The Treasurer is the collector of property taxes (Chapter 45 of Title 12 of the 1976 Code of Laws). Section 12-45-220 further authorizes the Treasurer to invest unneeded funds in certain designated securities. The section further provides that:

'The governing body may delegate the investment authority provided above to the county treasurer * * *.'

Please note, however, that this relates to the kinds of investments and not to the depository. The section specifically states that it in no way 'impairs a county to hold funds in deposit accounts'. Similar language is found in § 6-5-10, however, there the county governing body and the Treasurer are separately treated.

Additionally, § 12-45-270 requires that a certification of deposit by the bank be furnished the Comptroller General with each monthly report.

[Section 4-9-130\(7\)](#) and [4-9-430](#) further reflect legislative intent that the treasurer is responsible for the operations of his office. A treasurer is defined in [Webster's New Collegiate Dictionary](#) as follows:

'One trusted with charge of a treasure or treasures; specif: a. A guardian of a collection of treasures; a curator. b. An officer who receives the public money, takes charge of it, and disburses it upon orders made by the proper authority. c. A similar official in charge of the funds of an organization, society, or corporation.' (Emphasis added)

*2 'Treasury' is also defined by the same authority as:

'1. A place in which stores of wealth are deposited; esq. a place where public revenues are deposited, kept and disbursed; hence, the place of deposit and disbursement of any funds. 2. That department of a government which has charge of the finances. 3. A repository for treasures; also, a thesaurus.' (Emphasis added)

[Black's Law Dictionary](#) defines a 'treasurer' as:

'An officer of a public or private corporation, company, or government, charged with the receipt, custody, and disbursement of its moneys or funds. See [State v. Eames](#), 39 La. Ann. 986, 3 So. 93; [In re Millward-Cliff Cracker Co.'s Estate](#), 161 Pa. 167, 28 A. 1072; [Jones v. Marrs](#), 114 Tex. 62, 263 S.W. 570, 574.' (Emphasis added)

The Supreme Court of North Carolina in the case of [Gardner v. Board of Trustees, etc.](#), 226 N.C. 465, 38 S.E.2d 314, held that: 'A treasurer is one in charge of a treasury, and a treasury is a place where public funds are deposited, kept and disbursed. Webster.' See also [Words and Phrases](#), Volume 42A.

The statutes do not provide by clear language the officer or body to name the depository. The Treasurer, however, is charged with the integrity of the funds and by implication would thus have the power to designate the depository.

CONCLUSION:

It is the opinion of this office that the County Treasurer is the county officer responsible for the deposit and custody of county funds and in the absence of clear provision otherwise, designates the depository to be used.

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