

1982 WL 189481 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 3, 1982

*1 D. Laurence McIntosh, Esquire
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Dear Mr. McIntosh:

In response to your request for an opinion from this Office regarding whether or not the use of interest earned on school bond proceeds issued pursuant to [Sections 59-71-10 et seq., CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (the 'School Bond Act'), is restricted to the payment of debt service, my opinion is that it is not so restricted as hereinbelow discussed.

[Section 59-71-180 of the Code](#) provides in part:

The proceeds derived from the sale of the bonds shall be deposited with the treasurer of the county wherein the operating school unit is located, . . . to the credit of the operating school unit and shall be applied solely to the purposes for which the bonds were issued, except that . . . the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds. [Emphasis added.]

According to [Section 59-71-180](#), then, the only interest which is restricted in its use to the payment of debt service is 'accrued interest.' The meaning of 'accrued interest' can be determined both from the provisions of the School Bond Act and from its generally accepted meaning in public securities law. First, Section 59-71-140 specifies that school bonds are to be sold at a price not less than par 'and accrued interest to the date of delivery.' Furthermore, 'accrued interest' generally means any interest that may have accrued on the bond up to the time of the sale. See generally, 64 AM.JUR.2d Public Securities and Obligations § 241. For these reasons, my opinion is that while 'accrued interest,' that is, interest owing on the bond up to its sale, must be used to pay the first interest due on the bond, interest earned on the bond proceeds themselves is not so restricted, either expressly or impliedly. According to [Section 59-71-180 of the Code](#), the bond proceeds, including the interest earned thereon, are to be used solely for the purposes for which the bonds were issued, which purposes are not restricted merely to debt servicing but also include construction of the project financed by the bonds.

Finally, the decision as to whether or not the interest earned on the bond proceeds is to be used solely for debt servicing or as part of the construction fund as well should, of course, be made by the school district. The treasurer is merely the depository of the 'special fund to the credit of the operating school unit' and is to apply that special fund as directed by the school district. See generally, O'Shields v. Caldwell, 207 S.C. 194, 35 S.E.2d 184 (1945).

With kind regards,

Karen LeCraft Henderson
Deputy Attorney General

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