

1991 S.C. Op. Atty. Gen. 72 (S.C.A.G.), 1991 S.C. Op. Atty. Gen. No. 91-23, 1991 WL 474753

Office of the Attorney General

State of South Carolina

Opinion No. 91-23

April 2, 1991

***1 SUBJECT: Taxation and Revenue - Disbursement Of School Funds By The Treasurer.**

A county treasurer may not establish an account in the South Carolina Pooled Investment Fund in the name of the treasurer and by direct deposit invest State funds distributed to a school district with the school district having authority to withdraw the funds. School district funds may be distributed to a school district as provided by § 59-69-215.

TO: Honorable William H. Linder
Richland County Treasurer

QUESTION:

Can the Richland County Treasurer authorize the direct deposit of State funds distributed to Richland County School District 1 into an account in the South Carolina Pooled Investment Fund in the name of the treasurer with the school district having the power to withdraw the funds?

APPLICABLE LAW:

S.C. Code Ann. Chapter 69 of Title 59 specifically §§ 59-69-215 and 59-69-230 (1976); S.C. Const. art. X, § 8.

DISCUSSION:

Section 59-69-230 provides that:

All moneys disbursed by any county treasurer on account of school funds or taxes shall be paid on the order of the board of school trustees, countersigned by the county superintendent of education, or as otherwise directed by law.

Section 59-69-215, upon agreement of the school district and county governing body, authorizes the treasurer to remit school funds to the school districts. The section further provides that:

. . . Funds received by the school district from the county treasurer which are not needed for immediate disbursement may be invested by the district in interest bearing accounts or certificates of deposit issued by banking institutions or savings and loan association licensed to do business in this State or in securities issued by or guaranteed by the United States Government. . .

These statutes are controlling except for special funds such as those provided by § 59-21-380. (See Anderson County School Dist. 1 v. Board of Education, 296 S.C. 260, 371 S.E.2d 807 (1984 Court of Appeals.) Here, the agreement between the county and the school district exceeds the limitation of §§ 59-69-215 and 59-69-230, both of which are general statutes.

Under § 4-9-30, the powers of the county governing body are subject to the constitution and general laws of the State. As a general rule, school district funds can only be disbursed by a county treasurer under one of these procedures. S.C. Const. art. X, § 8 provides that:

Money shall be drawn from the treasury of the State or the treasury of any of its political subdivisions only in pursuance of appropriations made by law.

Here, the agreement between the county and school district requires that you establish an account with the fund, that the school district can withdraw the funds, and that the school district report to the treasurer State funds deposited in the fund. We do not find authority for this procedure under either § 59-69-215 or § 59-69-230.¹

CONCLUSION:

*2 A county treasurer may not establish an account in the South Carolina Pooled Investment Fund in the name of the treasurer and by direct deposit invest State funds distributed to a school district with the school district having authority to withdraw the funds. School district funds may be distributed to a school district as provided by § 59-69-215.

Joel L. Allen, Jr.
Chief Deputy Attorney General

Footnotes

1 If this is to be accomplished, the provisions of § 12-59-215 should be followed. Under such, the treasurer could authorize the direct deposit into the fund. The distribution, under such, would be from the State to the treasurer to the fund for the school district's account.

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