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FILE NO. 87-003

FINANCE:  
Use of Interest Earned on the  
Investment of a Local Library  
Working Cash Fund

Honorable Jim Edgar  
Illinois Secretary of State  
State House, Room 213  
Springfield, Illinois 62756

Dear Mr. Edgar:

I have your letter wherein you inquire whether interest earned from the investment of the local library working cash fund, which was established pursuant to section 4-13 of The Illinois Local Library Act (Ill. Rev. Stat. 1985, ch. 81, par. 4-13), and which is funded by the collection of taxes in accordance with section 3-9 of The Local Library Act (Ill. Rev. Stat. 1985, ch. 81, par. 3-9), may be expended from

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the local library working cash fund to meet demands for ordinary and necessary and committed expenditures for library purposes. If so, you ask whether the amount so expended must be reimbursed to the local library working cash fund at a future date.

In general, a working cash fund is a special fund of a unit of government created to enable that unit to meet its ordinary expenses as they become due. (See E. McQuillan, The Law of Municipal Corporations § 39.02 (1985).) Section 4-13 of The Illinois Local Library Act, which confers upon boards of library trustees the power to establish such a fund, provides as follows:

"A Board of Library Trustees may, by resolution, create and maintain a working cash fund, for the sole purpose of enabling the library board to have in its funds, at all times, sufficient money to meet demands thereon for ordinary and necessary and committed expenditures for library purposes.

Such working cash fund shall be known as the local library working cash fund and may contain any amount deemed necessary by the Board to satisfy the purpose of the fund; provided, that the balance in the fund shall not at any time be allowed to exceed .2% of the full, fair cash value of all taxable property within the corporate limits, as equalized or assessed by the Department of Revenue as of the year the fund is established or, if such fund is established after January 1, 1979, then for the year 1978. The money for such fund shall only accrue from the local library working cash fund tax authorized to be levied pursuant to Section 3-9.

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Once the fund has been created, the proceeds shall be deposited in a special and separate fund, and may be carried over, from year to year without in any manner reducing or abating a future annual library tax levy. It shall be identified in the appropriation each year, but shall not be deemed as a current asset available for library purposes.

The proceeds of such fund may be transferred from the local library working cash fund to the general library fund, and disbursed therefrom in anticipation of the collection of taxes lawfully levied for general library purposes or in anticipation of such taxes, as by law now or hereafter enacted or amended, imposed by the General Assembly of the State of Illinois to replace revenue lost by units of local government and school districts as a result of the abolition of ad valorem personal property taxes, pursuant to Article IX, Section 5(c) of the Constitution of the State of Illinois. Such taxes when collected, and after payment of tax warrants, shall be drawn upon to reimburse the working cash fund." (Emphasis added.)

The statute specifically sets forth the purposes for which the local library working cash fund may be applied. Firstly, the fund may be used to meet demands for ordinary and necessary and committed expenditures for library purposes, and, secondly, money from the fund may be diverted to the general library fund in anticipation of certain taxes. If the working cash fund is applied for the latter purpose, the amount diverted must be restored to the working cash fund when the particular taxes have been collected and after payment of tax warrants.

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It is well established that earnings emanating from the investment of special funds are considered an accretion to the principal of the fund earning it and that the use of such earnings must be confined to the purposes for which the particular fund was created. (See Annot., 143 A.L.R. 1341 (1943) and the cases cited therein.) In opinion No. 354, issued April 1, 1957, Attorney General Castle addressed this issue with respect to interest earned on allocations of funds from the Fair and Exposition Fund to county fair associations:

" \* \* \*

It has been held that interest earned by a municipality on local improvement assessments collected by it constitutes a part of the trust corpus and could not be diverted to other purposes by the municipality. [Citations.]

When public funds come into the hands of a public officer, he is considered a trustee of same. [Citations.] On analogous reasoning, I consider that those public funds distributed to a county fair to be used for the specific purposes earmarked by statute as being in the nature of a trust.

\* \* \*

Since amounts distributed from the Fair and Exposition Fund to county fairs are in the nature of a trust fund and are to be applied only to the specific purposes authorized by statute, it would follow that all interest earned on said funds prior to accomplishment of the purpose for which said funds were distributed should follow the corpus and become a part of said quasi trust funds. \* \* \*

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(1957 Ill. Att'y Gen. Op. 64, 66.)

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See also First National Bank & Trust Co. of Racine v. Village of Skokie (7th Cir. 1951), 190 F.2d 791; State Highway Commission v. Spainhower (Mo. S. Ct. 1973), 504 S.W.2d 121; State v. Straub (Or. S. Ct. 1965), 400 P.2d 229; Board of Law Library Trustees of Los Angeles County v. Lowery (Cal. App. Ct. 1945), 154 P.2d 719.

On the basis of the aforementioned authorities, it is my opinion that interest accruing from the investment of a local library working cash fund must be considered an accretion to the principal of the local library working cash fund and that the use of such interest is restricted to those purposes to which the local library working cash fund may be statutorily applied. Accordingly, it is my opinion that interest earned from the investment of the local library working cash fund may be used to meet demands for ordinary and necessary and committed expenditures for library purposes, or may be temporarily diverted to the general library fund in anticipation of certain taxes. If such interest is diverted to the general library fund in anticipation of certain taxes, it is my opinion that the amount of interest so diverted must be reimbursed to the local library working cash fund after the collection of the particular tax and the payment of tax warrants. There is, however, no parallel requirement for reimbursement pertaining to the expenditure of moneys from the

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local library working cash fund to meet ordinary and necessary and committed expenses. Therefore, it is my opinion that if interest accruing from the investment of the local library working cash fund is applied to meet ordinary and necessary and committed expenses, it need not be repaid or restored to the local library working cash fund.

Very truly yours,



A T T O R N E Y G E N E R A L