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FILE NO. S-573

COUNTY OFFICERS:
County Treasurer as ex-officio
County Collector

Honorable John J. Bowman
State's Attorney
DuPage County
240 E. Willow Street
Wheaton, Illinois

Dear Mr. Bowman:

I have the recent letter from your predecessor
wherein he states:

"A question has arisen and brought to my attention
regarding the investment of funds in the custody
of the County Treasurer in his official capacity
as ex-officio County Collector.

"Reference is made to Chapter 36 §17 et seq.
entitled 'An act concerning County Treasurers ...
concerning public funds within their custody';
Chapter 120 §657 et seq. relating to County
Collectors; and Chapter 85 §901 et seq. entitled
'An Act relating to certain investments of public
funds by public agencies.'

"It is my opinion that collector's funds are included in the term 'county moneys'. As such they may be invested by the Treasurer and the interest accruing would be properly credited to the County Corporate Fund.

"I would appreciate your opinion predicated upon the following question:

Are the funds received by the Treasurer as ex-officio County Collector 'county moneys', subject to investment by the Treasurer with the interest creditable to the County Corporate Fund?"

Section 176 of The Revenue Act of 1939, (Ill. Rev. Stat. 1971, ch. 120, par. 657) provides:

"The treasurers of all counties shall be ex-officio county collectors of their respective counties.

* * * * *

In addition to The Revenue Act of 1939, you have referred to "An Act relating to certain investments of public agencies," (Ill. Rev. Stat. 1971, ch. 85, par. 901 through 905) and also "An Act concerning county treasurers, * * *," (Ill. Rev. Stat. 1971, ch. 36, par. 19 through 41.) Each of these acts should be read together and harmonized, if possible with a view to giving effect to a consistent legislative policy. (Rosehill Cemetery Co. v. Lueder, 406 Ill.

458.) In my opinion the controlling provision is Section 6.1 of "An Act concerning county treasurers * * *," (Ill. Rev. Stat. 1971, ch. 36, par. 22.1.) which provides:

"All earnings accruing on any investments or deposits made by the County Treasurer whether acting as such or as County Collector, of county monies as in this Act is defined, shall be credited to and paid into the County Treasury for the Benefit of the county corporate fund to be used for county purposes, except where by specific statutory provisions such earnings are directed to be credited to and paid to a particular fund."

It can be observed that "An Act concerning county treasurers * * *," is quite clear. It specifically provides that all earnings accruing on any investment or deposits of the county treasurer of county moneys, as defined, are to be credited to the county corporate fund except where by statute there is a direction to credit a particular fund. Money collected by the county treasurer as county collector would be "county moneys" as defined in the Act. Section 1 of said Act defines "county moneys" as follows:

* * * * * * * * *

The term 'county moneys' shall include all moneys to whomsoever belonging, received by or in possession or control of the incumbent of the office of county treasurer when acting as such or in any other official capacity incident to his incumbency of the office of county treasurer.

* * * * * * * * *

In conclusion, therefore, I am of the opinion that funds received by the county treasurer as ex-officio county collector are "county monies" and may be deposited or invested if done so in accordance with the provisions of "An Act concerning county treasurers * * *," (Ill. Rev. Stat. 1971, ch. 36, par. 17-41), "An Act relating to certain investments of public funds by public agencies," (Ill. Rev. Stat. 1971, ch. 85, par. 901-905) and "The Revenue Act of 1939," (Ill. Rev. Stat. 1971, ch. 120, par. 1-811.). The interest would be creditable to the county corporate fund except where a specific statute directs the earnings to be credited to and paid to a particular fund.

Very truly yours,

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