

Approved: April 28, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 12:30 p.m. on April 1, 1994 in Room 423-S of the Capitol.

Members present: Senator Langworthy, Senator Martin, Senator Corbin, Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

Committee staff present: Tom Severn, Legislative Research Department
Don Hayward, Revisor of Statutes
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee: Senator Tim Emert

Others attending: See attached list

Senator Tim Emert appeared before the committee requesting to amend **HB 2802**. (Attachment 1) He said because of a recent Attorney General's Opinion, 94-39, all receipts collected upon admission to school sponsored competitions or events such as athletic or music competition are moneys of a unified school district and must comply with procedures set forth in KSA 12-105b and KSA 72-8202d. (Attachment 2) **HB 2802** would authorize the Board of Education of any school district to establish school activity funds from which expenditures could be made for activities. The Board would specify the general purpose for which the fund is established and would authorize a school district employee to administer the fund. That employee would be required to keep records of receipts and expenditures and to make a report from time-to-time and at the end of each school year. All moneys received from the sale of admissions to school activities would be credited to school activity funds. Such moneys would not be considered moneys of the school district for purposes of KSA 72-8202d. The act would be effective upon publication in the Kansas Register. The bill would put in to law what has been the practice of the school boards.

Senator Reynolds made a motion to amend HB 2802 by removing the present provisions of the bill and by inserting New Section 3 into the bill. The motion was seconded by Senator Martin. The motion carried.

Senator Reynolds made a motion to pass HB 2802 favorably as amended. The motion was seconded by Senator Sallee. The motion carried.

The meeting adjourned at 12:45 p.m.

STATE OF KANSAS

SENATE CHAMBER

MR. PRESIDENT:

I move to amend House Bill No. ²⁸⁰²~~3029~~, As Amended by Senate Committee, as follows:

On page 7, following line 1, by inserting a new section as follows:

"New Sec. 3. (a) The board of education of any school district may authorize, by separate resolutions, the establishment of school activity funds from which to make needed expenditures for the payment of expenses attributable to activities in which pupils of the district may participate directly or indirectly. Every such resolution shall specify the general purpose for which the fund is to be established and shall authorize an employee of the school district to administer the fund.

(b) The employee authorized to administer any school activity fund established by any resolution provided for in this section shall keep a record of all receipts and expenditures from the fund, and shall, from time to time, and at the end of each school year, prepare a statement for the board of education showing all receipts, expenditures, and the balance in the fund. The fund shall be kept separate from all other funds and be used only for authorized expenditures, and itemized receipts shall be taken for each expenditure.

(c) All moneys received from the sale of admissions to activities which the school district sponsors shall be credited to school activity funds in accordance with policies and procedures adopted by the board of education. Such moneys shall not be considered to be moneys of the school district for the purposes of K.S.A. 72-8202d, and amendments thereto.

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(d) The provisions of K.S.A. 12-105b, and amendments thereto, shall not apply to claims against any school activity fund established by any resolution provided for in this section.

(e) As used in this section, the term "activities" means activities, events, and competitions in such fields as athletics, music, forensics, and dramatics, and other interschool or intraschool extracurricular activities in which pupils may participate directly or indirectly.";

By renumbering sections 3 and 4 as sections 4 and 5, respectively;

In the title, in line 11, after "concerning", by inserting "school districts; relating to"; in line 13, by striking "relating to" and inserting "providing for"; in line 15, after the semicolon, by inserting "authorizing the establishment of school activity funds by boards of education;"

Senator _____



STATE OF KANSAS

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March 16, 1994

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ATTORNEY GENERAL OPINION 94- 39

James R. Cobler
Director of Accounts and Reports
Department of Administration
900 Jackson, Room 251
Landon State Office Building
Topeka, Kansas 66612-1220

Re: Schools--Organization, Powers and Finances of
Boards of Education--Treasurer; Appointment and
Duties; Gate Receipts

Synopsis: Receipts collected upon admission to
school-sponsored competitions or events such as
athletic or music competitions are moneys of a
unified school district. Deposits and expenditures
of such receipts must comply with the procedures
set forth in K.S.A. 12-105b and 72-8202d. Cited
herein: K.S.A. 9-1401; 12-105a; 12-105b; K.S.A.
1993 Supp. 21-3910; K.S.A. 72-1033; K.S.A. 1993
Supp. 72-5390; K.S.A. 72-8202d.

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Dear Mr. Cobler

As director of the division of accounts and reports, you
~~request our opinion regarding~~ the proper application of the
uniform payment of claims act. Specifically, you ask whether
receipts collected upon admission to school-sponsored
~~competitions or events~~ such as athletic or music competitions
(gate receipts) are moneys of a unified school district which
must be deposited pursuant to K.S.A. 72-8202d, and

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expenditures of which are subject to the requirements set forth in K.S.A. 12-105b.

Based upon the information provided, the current policy regarding the handling by a unified school district of gate receipts follows the Guidelines for School Activity Funds (guidelines) produced by the minimum standard audit program. The guidelines authorize the deposit of gate receipts collected at school-sponsored events in an account established for that program, i.e., gate receipts collected at an athletic event may be deposited in an account established for the particular athletic activity. The accounts are not held by any of the financial institutions recognized under K.S.A. 9-1401. The guidelines also authorize the payment of claims from that fund with the approval of the activity sponsor or school principal. Your questions are whether gate receipts constitute moneys of a school district and, if so, whether the guidelines are in conflict with procedures required under K.S.A. 12-105b and K.S.A. 72-8202d.

Gate receipts are not specifically established by state statute. However, pursuant to K.S.A. 72-1033, the board of education for a school district is to have control of the school district property, including school buildings and grounds, and may open the school buildings for public use pursuant to rules and regulations adopted by the board of education. The board of education is also authorized to assess and collect fees from pupils for the use of facilities, materials, and equipment in activities which are not mandatory, but optional to pupils, whether incidental to curricular, extracurricular or other school related activities. K.S.A. 1993 Supp. 72-5390. Given the authority conferred upon a board of education, we believe a board of education has the authority to assess and collect gate receipts.

Excluding gate receipts collected at post-season athletic events, gate receipts are recognized by rules and regulations adopted by a board of education. [Gate receipts collected at post-season athletic events are established by the Kansas state high school activities association (KSHSAA) and are conveyed to the KSHSAA.] The amount of the gate receipts is established by the board of education and collected by persons designated by the board of education. The gate receipts are retained by the school district. Under such circumstances, the gate receipts constitute moneys of the school district. See K.S.A. 1993 Supp. 21-3910 ("public funds"); State, ex rel., v. McCombs, 156 Kan. 391, 403 (1943) (public moneys).

As gate receipts constitute moneys of the school district, deposit of the gate receipts is governed by K.S.A. 72-8202d. K.S.A. 72-8202d obligates the treasurer appointed by the board of education to "deposit all moneys of the school district in accordance with the provisions of chapter 9, article 14, of Kansas Statutes Annotated." K.S.A. 9-1401 et seq establishes the types of financial institutions in which moneys of a municipal corporation or quasi-municipal corporation may be deposited and the types of securities to be retained by the municipal corporation or quasi-municipal corporation. The interpretation of a statute is a matter of law and it is the function of the court to interpret the statute to give it the effect intended by the legislature. Todd v. Kelly, 251 Kan. 512, 515 (1992). When a statute is plain and unambiguous, the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be. Martindale v. Tenny, 250 Kan. 621, 629 (1992). Because gate receipts constitute moneys of the school district, the treasurer of the school district is obligated under K.S.A. 72-8202d to deposit gate receipts as set forth in K.S.A. 9-1401 et seq.

K.S.A. 12-105a and 12-105b establish a uniform procedure for payment of claims and other indebtedness by municipalities. As a school district falls within the definition of municipality set forth in K.S.A. 12-105a, claims regarding moneys of a school district may be allowed only upon presentation of a written claim. K.S.A. 12-105b. "A claim may be the usual statement of account of the vendor or party rendering a service or other written statement showing the required information." Id. Because gate receipts constitute moneys of the school district and a school district falls within the definition of municipality set forth in K.S.A. 12-105a, claims regarding gate receipts must be presented as set forth in K.S.A. 12-105b.

In review, receipts collected upon admission to school-sponsored competitions or events such as athletic or music competitions are moneys of a unified school district. Deposits and expenditures of such receipts must comply with the procedures set forth in K.S.A. 12-105b and 72-8202d. Those provisions of the Guidelines for School Activity Funds which authorize deposit of gate receipts into an account not held by one of the financial institutions recognized under K.S.A. 9-1401 and permit expenditures from the account with

the approval of the activity sponsor or school principal are in conflict with the required procedures for deposit and expenditure of such receipts.

Very truly yours,



Robert T. Stephan
Attorney General of Kansas



Richard D. Smith
Assistant Attorney General

RTS:JLM:RDS: