STATE OF TENNESSEE
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June 26, 2001

Opinion No. 01-103

City School System's Use of County School Bond Proceeds

QUESTIONS

1. Do the limitations on the use of county school bond proceeds apply to the non-issuing city school system within the county?

2. May a city school system donate its pro-rata share of county school bond proceeds to renovate or build a public library?

OPINIONS

1. Yes.

2. No.

ANALYSIS

A county may issue and sell bonds for school purposes,[1] and levy a tax for the exclusive use of paying the bonds.[2] In those counties that have separate city school systems operating independently of the county school system, the county legislative body may tax all the property in the county, including property within the city. In this event the proceeds of the bonds must be divided with the city system on a pro-rata basis according to school population.[3] In the alternative the county may elect to tax only the property of the county that is located outside the territorial limits of the city school district in order to pay such bonds. In this event no part of the proceeds of the bond issue shall be paid over to the city school system. [4]

[1] Tenn. Code Ann. § 49-3-1002.

[2] Tenn. Code Ann. §49-3-1005.

[3] Tenn. Code Ann. §49-3-1003(b)(1).

[4] Tenn. Code Ann. §49-3-1005.

When the county legislative body elects to levy its tax for the payment of school bonds on all of the property in the county, a city school system has two alternatives:

(1). The governing body of the city may, by ordinance, waive its right to all or part of its pro-rata share of the funds and return the funds to the county trustee for the county school system to use for "the purposes originally provided,"[5] or

(2). The city school board may use the funds.[6]

If the governing body of the city decides to keep its pro-rata share of the bond proceeds, the law requires that the funds must be kept separate and that the funds may only be used "for the purposes herein provided for the county funds to be used."[7] This law provides that the proceeds of school bonds:

> ...shall be applied exclusively to purchase property for school purposes, to purchase sites for school buildings, to erect or repair school buildings, to furnish and equip school buildings and to refund, call or make principal and interest payments on bonds or other obligations previously issued for no other purposes by the county board of education, or the governing boards of the city.[8]

Although a public library performs, in part, an educational function, it serves all the people of the city or county, adults as well as school children. It is not a school building and neither a city nor a county system may donate proceeds of school bonds to the construction or renovation of a public library.

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[5] Tenn. Code Ann. §49-3-1003(b)(2).

[6] Tenn. Code Ann. §49-3-1003(a)(1).

[7] Tenn. Code Ann. §49-3-1003.

[8] Tenn. Code Ann. §49-3-1004.

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