

*Attorney General of Missouri*

JEFFERSON CITY

65102

JOHN ASHCROFT  
ATTORNEY GENERAL

(314) 751-3321

October 30, 1980

OPINION LETTER NO. 180

Honorable Marion G. Cairns  
Representative, District 96  
17 East Swon Avenue  
Webster Groves, MO 63119



Dear Representative Cairns:

This is in response to your opinion request asking the following question:

How are the proceeds of a sale of bonds by a county to be disposed of when there is no intention of using the bond proceeds for the purpose for which their sale was approved by the voters of the county?

The facts which you give are as follows:

In 1964 voters of St. Louis County approved the issuance of \$5 million of bonds to finance the construction of incinerators for the county. Some of those bonds were sold and the proceeds placed in the bank. However, no incinerators were ever constructed and the county now has no intention of constructing incinerators.

There seems to be no legal way of disposing of the excess of money remaining from the sale of those bonds. Article VI, Section 29 of the Constitution of Missouri states, 'The moneys arising from any loan, debt, or liability contracted by the state, or any county, city, or other political subdivision, shall be applied to the purposes

Honorable Marion G. Cairns

for which they were obtained, or to the re-  
payment of such debt or liability, and not  
otherwise.'

I am requesting your opinion as to how  
those funds may legally be disposed of.

We gather from your question and the facts as related in  
the request that at the time of the issuance of the bonds there  
was an intention to purchase incinerators which did not material-  
ize for either a lack of need or for some other reason. We also  
believe that your request indicates that the bond money has not  
been used for any other purpose. You further anticipate that the  
proceeds from the sale of the bonds will be used to repay the bond-  
holders and retire the bonds that there may be some excess money  
left over.

However, we believe that § 108.180, RSMo 1978, resolves the  
dilemma. This section provides in part:

[P]rovided further, that any bonds or  
money remaining in the interest and  
sinking fund of any such county, city,  
incorporated town or village, school dis-  
trict, or other political corporation or  
subdivision of the state, after the ex-  
tinction of the indebtedness for which  
such bonds were issued, shall be paid into  
the general revenue fund of such county,  
city, incorporated town or village, or  
other political corporation or subdivi-  
sion, and into the building fund of such  
school district.

We believe that the legislative intent in the above statute  
is clear. We have found no cases which would help us on this sub-  
ject. We, therefore, conclude from a plain reading of the lan-  
guage in the statute that the excess money after the bonds are re-  
tired remaining in the interest and sinking fund shall be paid ac-  
cording to § 108.180, RSMo 1978.

Very truly yours,



JOHN ASHCROFT  
Attorney General