



The Attorney General of Texas

November 13, 1979

MARK WHITE
Attorney General

Supreme Court Building
P.O. Box 12548
Austin, TX. 78711
512/475-2501

701 Commerce, Suite 200
Dallas, TX. 75202
214/742-8944

4824 Alberta Ave., Suite 160
El Paso, TX. 79905
915/533-3484

723 Main, Suite 610
Houston, TX. 77002
713/228-0701

806 Broadway, Suite 312
Lubbock, TX. 79401
806/747-5238

4313 N. Tenth, Suite F
McAllen, TX. 78501
512/682-4547

200 Main Plaza, Suite 400
San Antonio, TX. 78205
512/225-4191

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Honorable Warren G. Harding
State Treasurer
P. O. Box 12608
Austin, Texas 78711

Opinion No. MW-82

**Re: Disposition of interest earned
by time deposits by the Fire
Fighters' Relief and Retirement
Fund.**

Dear Mr. Harding:

You inquire about the disposition of interest earned from time deposits of the Fire Fighters' Relief and Retirement Fund Account, assigned Fund No. 976 by the Comptroller. The retirement fund was established pursuant to article 6243e.3, V.T.C.S., to provide a pension system and death and disability benefits for volunteer fire fighters.

You wish to know whether the pro-rata depository interest earned from the time account deposits of Fund 976 should be placed in the General Fund pursuant to the provisions of article 2543d, V.T.C.S., or credited to Fund 976.

Article 2543d, V.T.C.S., provides in pertinent part:

Section 1. Interest received on account of time deposits of moneys in funds and accounts in the charge of the State Treasurer shall be allocated as follows: To each constitutional fund there shall be credited the pro rata portion of the interest received due to such fund. The remainder of the interest received, with the exception of that portion required by other statutes to be credited on a pro rata basis to protested tax payments, shall be credited to the General Revenue Fund. The interest received shall be allocated on a monthly basis.

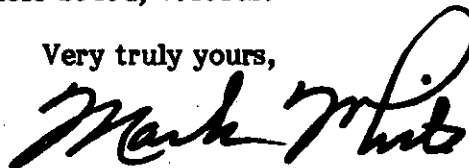
Prior opinions of this office have determined that the interest on time deposits of trust funds should remain with the trust fund rather than being deposited in the General Fund pursuant to article 2543d, V.T.C.S. See Attorney General Opinions H-1040 (1977); M-468 (1969). We believe that the Fire Fighters' Relief and Retirement Fund constitutes a trust fund. Funds in

the Teacher Retirement and the Employees Retirement Systems have been held to be trust funds. Attorney General Opinion WW-565 (1959). The Fire Fighters' Fund is administered by trustees. V.T.C.S. art. 6243e.3, §§ 20, 21. Finally, the statute under which it is established expressly provides that "[n]o portion of the corpus or income of the fund may be used for purposes other than the benefit of member fire fighters and their beneficiaries." Id. § 14(e). In our view, the interest earned from time account deposits of Fund 976 should be credited to the Fund rather than deposited pursuant to article 2543d, V.T.C.S.

S U M M A R Y

Interest earned from time deposits of the Fire Fighters' Relief and Retirement Fund Account should be credited to the Fund rather than deposited pursuant to article 2543d, V.T.C.S.

Very truly yours,



MARK WHITE
Attorney General of Texas

JOHN W. FAINTER, JR.
First Assistant Attorney General

TED L. HARTLEY
Executive Assistant Attorney General

Prepared by Susan Garrison
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

C. Robert Heath, Chairman
David B. Brooks
Walter Davis
Bob Gammage
Susan Garrison
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