



STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
BOISE 83720

TELEPHONE  
(208) 334-2400

JIM JONES  
ATTORNEY GENERAL

October 27, 1987

The Honorable Lydia Justice Edwards  
Idaho State Treasurer  
Statehouse  
Boise, Idaho 83720

Re: Investment of Public Health District Funds

Dear Ms. Edwards:

This is in response to the question of whether public health districts are required to place their funds with the State and, if so, whether they should participate in the joint exercise of powers pool or in the idle funds pool. As discussed herein, health district are required to deposit their funds with the State. I would recommend that they continue to use the joint exercise of powers pool for their investments.

The public health districts are created by chapter 4, title 39, Idaho Code. The general nature of health districts is described in Idaho Code § 39-401 which provides in pertinent part:

It is legislative intent that health districts operate and be recognized not as state agencies or departments, but as governmental entities whose creation has been authorized by the state, much in the manner as other single purpose districts. Pursuant to this intent, and because health districts are not state departments or agencies, health districts are exempt from the required participation in the services of the purchasing agent or employee liability coverage, as rendered by the department of administration. However, nothing shall prohibit the health districts from entering into contractual [contractual] arrangements with the department of administration, or any other department of

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state government or an elected constitutional officer, for these or any other services.

. . .

It is also legislative intent that the matters of location of deposit of health district funds, or the instruments or documents or payment from those funds shall be construed as no more than items of convenience for the conduct of business, and in no way reflect upon the nature or status of the health districts as entities of government.

Thus, while public health districts are not state agencies, the legislature authorizes the districts to contract with constitutional officers such as the treasurer. The statutes governing the location of deposits with the state are not intended to imply that health districts are state agencies.

The provisions of the act governing deposits are set forth in Idaho Code §§ 39-414 and 39-422. Idaho Code § 39-414(5) provides:

(5) All moneys or payment received or collected by gift, grant, devise, or any other way shall be deposited to the respective division or subaccount of the public health district in the public health district account authorized by section 39-422, Idaho Code.

Idaho Code § 39-422 provides in pertinent part:

(a) There is hereby authorized and established in the trust and agency fund in the state treasury a special account to be known as the public health district account for which the state treasurer shall be custodian. Within the public health district account there shall be seven (7) divisions or subaccounts, one (1) for each of the seven (7) public health districts. Each division within the account will be under the exclusive control of its respective district board of health and no moneys shall be withdrawn from such division of the account unless authorized

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by the district board of health or their authorized agent.

(2) The procedure for the deposit and expenditure of moneys from the public health district account will be in accordance with procedures established between all district boards and the state auditor. All income and receipts received by the districts shall be deposited in the public health district account.

The foregoing statutes require all income and receipts of the public health districts to be deposited in the public health district account. The account is established in the trust and agency fund in the state treasury.

The trust and agency fund is described in Idaho Code § 57-803(c) as follows:

(c) The trust and agency fund is hereby created and established in the state treasury. The trust and agency fund is to be used to account for money which the state administers as a trustee pursuant to law or trust agreement which restricts the use of the money to a specified purpose, and for money which the state holds and disburses as an agent. The trust and agency fund shall also be used by state agencies to account for cash bonds, suspense type items, to hold money pending distribution to an individual, business or governmental agency, and to hold tax or other payments which are in dispute.

By placing the public health district account in the trust and agency fund, the legislature recognized that the funds would be administered by the state treasurer as trustee pursuant to law or trust agreement.

The current practice of investing public health district funds pursuant to joint exercise of powers agreements appears to be consistent with the statutory requirements and legislative intent. Funds must initially be deposited in the public health district account. However, as noted above, Idaho Code § 39-401 allows public health districts to enter into agreements with

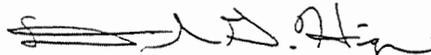
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constitutional officers such as the state treasurer. Joint exercise of powers agreements are used for investment of funds of non-state agencies. Thus, such agreements correctly reflect the non-state agency nature of public health districts. Such agreements also provide the mechanism whereby the public health districts may earn income on their funds. Without such agreements, it would be doubtful whether the districts could earn such interest since their share would then be administered pursuant to Idaho Code § 67-1210 as "idle moneys in the state treasury." That section provides that "the interest on all such investments, unless specifically required by law, shall be paid into the general account of the state of Idaho."

In summary, the statutes permit public health districts to enter into joint exercise of powers agreements with the state treasurer. Such agreements satisfy statutory requirements, recognize the non-state agency nature of public health districts, and permit public health districts to earn interest on their funds.

Should you have any questions regarding this letter, please contact me.

Sincerely,



David G. High  
Deputy Attorney General  
Chief, Business Regulation  
and State Finance Division

DGH/scw