

**County Funds, Deposit Of. Security Therefor.**

The fact that the individual members of a banking co-partnership, or others in interest, execute as sureties an indemnifying bond of a deposit of public funds as provided by Section 4367 of the Political Code, as amended by Chap. 5, Laws of 1903, does not of itself effect the sufficiency of the security.

Helena, Montana, Nov. 25, 1907.

Hon. W. L. Ford,  
County Attorney,  
White Sulphur Springs, Montana.

Dear Sir:—

I am in receipt of your favor of the 19th inst., asking opinion from this office as to whether or not it is proper under the law for the county treasurer of your county to deposit county funds in his possession with a private bank and to accept as security therefor a bond signed by the owners of such private bank as sureties, in the event such sureties should properly justify. In the particular case presented it appears that the owners of the private bank constitute a co-partnership and they are desirous of furnishing bond in the name of the partnership as principal, and signed by the members of the partnership individually as sureties.

Under the provisions of Sec. 4367 of the Political Code, as amended by Chap. 5, Laws 1903, the county treasurer is required to keep all moneys belonging to the county, and all other moneys by law directed to be paid unto him, in his possession until disbursed according to law. And in the event that he shall deposit the same, or any part thereof, with a bank, National, State or private, he is required to obtain from such bank a good and sufficient bond in double the amount of the deposit, signed by three or more sufficient sureties, to be approved by the Board of County Commissioners. All that is necessary for the county treasurer to do in making deposits with such private bank is to satisfy himself of the stability of the bank and the sufficiency of the sureties who execute the indemnifying bond. There must, of course be at least three who sign the bond as sureties in order to comply with the provisions of the law herein. The sureties for such deposit are not

disqualified under the provisions of the law by virtue of the fact that they are interested as partners or otherwise in the banking institution in which the deposit is made.

Therefore, if the treasurer desires to make deposits with such private bank, upon tender of security for the deposits in double the amount thereof, signed by three or more good and sufficient sureties, the fact that the sureties are members of a banking co-partnership or interested therein, will not prevent such sureties being accepted. Of course, the relationship of the sureties to the banking institution may properly be taken into consideration by the Board of County Commissioners in exercising their judgment and discretion as to whether or not the bond offered as security for the deposit should be accepted.

Very truly yours,

ALBERT J. GALEN,

Attorney General.