

Opinion No. 122.**Cities and Towns—Funds—Sinking
Funds, Investment of—Water
Depreciation Supply Fund.**

HELD: Since a Water Depreciation Supply Fund of a city is not created by statute and there is no statutory limitations upon its investment, there are no legal obstacles to its investment in Boulevard and Garbage Fund warrants, but it is a matter of policy whether such investment should be made.

June 18, 1935.

Hon. Frank H. Johnson
State Examiner
The Capitol

You have asked my opinion as to whether a city which has established a "Water Depreciation Supply Fund" may invest a part of it in Boulevard and Garbage Fund Warrants.

It has been held that a city may not invest sinking funds in any manner except as authorized by statute. (Volume 6, Opinions of the Attorney General, p. 234; Volume 11, p. 327; Volume 14, p. 333; Volume 14, p. 237.) Sinking funds, however, are created under authority of statute which has also, by express statute, limited their investment. Since a water depreciation supply fund is not created by statute and there is no statutory limitations upon its investment, we do not believe there are any legal obstacles to its investment in

the warrants named. At most, it becomes a question of policy. Whether it is good policy to use a fund which was created for certain purposes, that is, of meeting emergencies and also for replacement, for investment in warrants which might delay its use for the purpose for which it is established, may be doubtful but it is not for this office to determine questions of policy.

In view of this opinion we need not consider the question of liability of city officers.