



**STATE OF ARKANSAS**  
Office of the Attorney General

Winston Bryant  
Attorney General

Telephone  
(501) 682-2007

Opinion No. 94-221

August 17, 1994

The Honorable Dan Harmon  
Prosecuting Attorney  
Seventh Judicial District  
102 South Main  
P. O. Drawer 999  
Benton, AR 72015

Dear Mr. Harmon:

This is in response to your request for an opinion regarding a bond surplus in connection with certain industrial development bonds issued under the Local Government Bond Act of 1985 (A.C.A. §§ 14-164-301 *et seq.* (1987 and Cum. Supp. 1993)). You state that the electors of Grant County authorized the issuance of the bonds for the public purpose of financing an industrial park. The bonds have been retired, with a surplus tax collection of approximately \$25,000 to \$30,000. You have asked what governmental entity has the power to appropriate this surplus.

Amendment 62 to the Arkansas Constitution states in relevant part under Section 5 that any surplus tax collections "shall be transferred to the general funds of the ... county." The Local Government Bond Act of 1985 was adopted under Amendment 62, and echoes the above language from Section 5 in the provision governing the pledge and collection of ad valorem taxes. See A.C.A. § 14-164-317(c) (1987) See also A.C.A. § 14-164-329(d) (Cum. Supp. 1993) (regarding remitting the balance of local sales and use tax receipts to the municipality or county levying the tax).

It thus seems clear that the tax surplus is to be transferred to the general revenue fund in the county treasury. It must be noted in this regard that no money may be paid out of the county treasury until it has been appropriated by law. A.C.A. § 14-14-1102(b)(2)(C)(i) (1987). And the authority to appropriate county general funds is clearly vested in the county quorum court. See A.C.A. § 14-14-801(b)(2) (1987). Thus, in response to your specific question, the bond surplus must be appropriated by the quorum court, pursuant to its power to appropriate county public funds.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Elisabeth A. Walker.

Sincerely,

A handwritten signature in black ink, appearing to read "Winston Bryant". The signature is written in a cursive, flowing style with a large initial "W".

WINSTON BRYANT  
Attorney General

WB:EAW/cyh