

2455

BONDS ISSUED BY TENNESSEE VALLEY AUTHORITY NOT
LAWFUL INVESTMENTS FOR FUNDS OF MUNICIPALITIES,
FIREMEN'S RELIEF AND PENSION FUNDS OR POLICE
RELIEF AND PENSION FUNDS—§§731.56, 741.14, 741.45, R.C.

SYLLABUS:

Bonds issued by the Tennessee Valley Authority pursuant to the provisions of law found in Title 16, Section 831n-4, Federal Code, Annotated, are not lawful investments for the funds of municipalities, firemen's relief and pension funds, or police relief and pension funds, under their statutory investment authority as found in Sections 731.56, 741.14, and 741.45, Revised Code, respectively.

Columbus, Ohio, August 14, 1961

Hon. James A. Rhodes, Auditor of State
State House, Columbus, Ohio

Dear Sir:

I have your request for my opinion which reads as follows:

"It has come to our attention that the Tennessee Valley Authority has recently issued bonds. These bonds have become available to municipalities and police and firemen's pension fund trustees for investment purposes.

"R. C. 731.56, et seq., place certain limitations on the types of investments which may be purchased with inactive funds belonging to a municipal corporation. R. C. 741.14 establishes limitations on the types of investments which are available to the trustees of a firemen's relief and pension fund. R. C. 741.45 provides similar limitations on the investments which the trustees of a police relief and pension fund are authorized to make.

"I enclose for your reference a copy of the official statement describing the bonds in question. You will note that the bond-issuing entity is described therein as 'Tennessee Valley Authority, a wholly owned corporate agency and instrumentality of the United States of America.'

"This office has received inquiries from municipal officials who are interested in purchasing this security as an investment of inactive funds belonging either to the municipality or one of the municipal agencies mentioned above. In view of the fact that

additional offerings under this bond issue will become available from time to time in the future, I shall appreciate receiving your formal opinion as to whether these bonds may be purchased by the responsible officials under the statutes cited above.”

Section 731.56, Revised Code, reads in pertinent part as follows :

“The legislative authority of a municipal corporation may, by ordinance, provide that whenever there are moneys in the treasury of such municipal corporation which will not be required to be used by such municipal corporation for a period of six months or more, such moneys may, in lieu of being deposited in a bank, be invested in obligations of such municipal corporation, in bonds or other obligations of the United States or those for the payment of principal and interest of which the faith of the United States is pledged, * * *”

Section 741.14, Revised Code, reads in pertinent part as follows :

“The board of trustees of the firemen’s relief and pension fund may invest moneys received by the board in interest-bearing bonds of the United States or of this state, * * *”

Section 741.45, Revised Code, reads in pertinent part as follows :

“The board of trustees of the police relief and pension fund may invest moneys received by the board, whether raised by taxation or otherwise, in interest-bearing bonds of the United States or of this state, * * *”

It will be noted that each of the above statutory provisions permits the investment of funds in bonds or obligations of the United States but does not authorize an investment of said moneys in obligations of instrumentalities of the United States. Under the doctrine of *expressio unius est exclusio alterius* one must conclude that said statutes grant no authority to invest in bonds or obligations issued by instrumentalities of the United States.

The bonds described in the statement attached to your inquiry, which are to be issued by the Tennessee Valley Authority, are authorized to be so issued by the provisions of Federal law found in Title 16, Section 831n-4, Federal Code Annotated. (May 18-1933, c. 32, Sec. 15d, as added August 6, 1959, P. L. 86-137, Sec. 1, 73 Stat. 280; August 14, 1959, P. L. 86-157, 73 Stat., 338.)

Paragraph (b) of Section 831n-4, *supra*, reads in part as follows :

“(b) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payment of the principal thereof or interest thereof be guaranteed by, the United States. * * *”

From the above quoted statutory language, it is obvious that the bonds issued by the Tennessee Valley Authority are not obligations of the United States. As you have pointed out in your request, said authority is described as a wholly owned corporate agency or instrumentality of the United States ; however, as mentioned earlier, the Ohio statutory authority involved herein does not permit the investment of funds in bonds or obligations of instrumentalities of the United States.

Accordingly, it is my opinion and you are advised that bonds issued by the Tennessee Valley Authority pursuant to the provisions of law found in Title 16, Section 831n-4, Federal Code, Annotated, are not lawful investments for the funds of municipalities, firemen's relief and pension funds, or police relief and pension funds, under their statutory investment authority as found in Sections 731.56, 741.14, and 741.45, Revised Code, respectively.

Respectfully,

MARK MCELROY

Attorney General