

COUNTY COURT: The county court has no authority to approve or disapprove vouchers of the hospital board under
COUNTY HOSPITAL: Section 205.190, RSMo 1949; ~~an~~ assessor must give a surety company bond.



October 16, 1951

10-16-51

Mr. Francis Toohey, Jr.,
Assistant Prosecuting Attorney
Perry County
Perryville, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department, which request reads as follows:

"We are having some difficulty determining what authority, if any, the County Court has in the matter of approving or disapproving the vouchers of the hospital board under Section 205.190, RSMO 1949.

"We would also like to know if the county court has the authority to transfer surplus money from the general revenue fund to the hospital operating fund.

"The auditors who are presently in Perry County have asked that I seek an opinion as to whether the Assessor must give a Security Co. bond. I told them that it was my interpretation that such was the case but they still felt that I should seek an opinion from you."

You first ask whether the county court has any authority under Section 205.190, RSMo 1949, to approve or disapprove vouchers submitted by the hospital board. Section 205.190, RSMo. 1949 reads in part as follows:

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"The board of hospital trustees shall make and adopt such bylaws, rules and regulations for their own guidance and for the government of the hospital as may be deemed expedient for the economic and equitable conduct thereof, not inconsistent with sections 205.160 to 205.340 and the ordinances of the city or town wherein such public hospital is located. They shall have the exclusive control of the expenditures of all moneys collected to the credit of the hospital fund, and of the purchase of site or sites, the purchase or construction of any hospital buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose; provided, that all moneys received for such hospital shall be deposited in the treasury of the county to the credit of the hospital fund, and paid out only upon warrants ordered drawn by the county court of said county upon the properly authenticated vouchers of the hospital board."

This section received interpretation in the case of State ex rel. Trimble, 316 Mo. 1041, wherein the Supreme Court of Missouri sustained the position taken by the Kansas City Court of Appeals (222 Mo. App. 531), that the only judgment to be exercised by the county court is to determine whether a voucher presented shows proper authentication by the hospital board, and whether the voucher is for a purpose within the control of the board. The court in its opinion stated:

"The Court of Appeals construed these statutes to mean that hospital trustees have exclusive control of the expenditure of moneys collected to the credit of the hospital fund. The natural interpretation of that language excludes the intervention of any other official in determining what claims are to be paid and what accounts ought to be allowed. The plain words mean that full discretion is vested in the hospital board to pass upon and determine the validity of every claim presented. Relators call attention to the provision that the money must be

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deposited in the treasury of the county and must be paid out only upon warrants drawn by the county court, and argue that the county court is thus vested with some discretion, some function to determine whether or not the claims presented are valid, but that same sentence of the statute goes on to say that such payments are made upon properly authenticated vouchers of the hospital board. That seems to leave no doubt that the only judgment exercised by the county court is determined whether the vouchers presented show proper authentication of the hospital board, and whether they are for purposes within control of the hospital board and for the purposes of the above statute. If such vouchers should show on their faces that they were issued for purposes foreign to the field controlled by the hospital board, the county court could deny warrants. * * *

In regard to the authority of the county court to make an appropriation from the general revenue fund for the improvement and maintenance of a county hospital, I am enclosing an opinion to Mr. Davis Benning, Prosecuting Attorney of Pike County, dated July 10, 1946. However, we are of the opinion that such an appropriation may only be made as provided by law and if such an appropriation as provided by Section 205.230 has already been made there could be no authority to transfer surplus money from the general revenue fund to the hospital operating fund.

You next inquire whether an assessor in a county of the fourth class must give a "Security" company bond. We assume you mean surety company rather than security. It is noted that prior to 1945 the law requiring an assessor to give bond was not couched in terms of a surety company bond. The present law is found in Section 53.040, RSMo 1949, which reads as follows:

"Every assessor (except the assessor of St. Louis city) before entering upon the duties of his office, shall give a surety company bond in a sum of not less than one thousand dollars, to be paid by the county or township, the amount to be fixed by the court or clerk, as the case may require, conditioned for the faithful performance of

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the duties of his office, which bond shall be deposited in the office of the clerk of the county court."

The terms of this section are clear and unambiguous. We are, therefore, of the opinion that an assessor must give a surety company bond.

CONCLUSION

Therefore, it is the opinion of this department that the county court has no authority to approve or disapprove vouchers of the hospital board under Section 205.190, RSMo 1949, and the only judgment to be exercised by the county court is to determine whether the vouchers presented show proper authentication and whether the voucher is for a purpose within the control of the board.

We are further of the opinion that an assessor in a county of the fourth class must give a surety bond.

Respectfully submitted,

D. D. GUFFEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

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