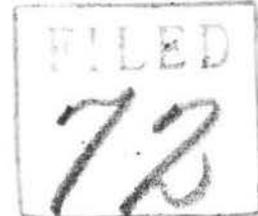


COUNTY HOSPITALS:

The hospital board of trustees does not have the authority to spend accumulated money in the hospital fund for a promotion or advertising campaign preceding a bond election to enlarge the public hospital.

April 20, 1960



Hon. Charles A. Powell, Jr.
Prosecuting Attorney
Macon County
Macon, Missouri

Dear Mr. Powell:

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

"I have the opinion of your Mr. Noblet, number 33-57 dated Feb. 28, 1957 relative to the right of the County Court to pay from general revenue funds for advertising or promotion preceding bond election to enlarge hospital, which opinion is that no such authority is in the Court.

"The Hospital board of Trustees has asked me to inquire for an opinion relative to their authority to spend accumulated money in the hospital funds for such promotion or advertising campaign preceding such bond election."

Section 205.160, RSMo 1949, authorizes the county court, subject to the provisions of Sections 205.160 to 205.340, to establish, construct, equip, improve, extend, repair and maintain a public hospital and further authorizes the county court to issue bonds therefor as authorized by the general law governing the incurring of indebtedness by counties.

Section 205.170, RSMo 1949, provides for a board of hospital trustees and Section 205.180, RSMo 1949, provides for the election of said hospital trustees.

Section 205.190 prescribes certain powers and duties of said hospital trustees. Said section specifically provides that

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the board of trustees shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund. Section 205.200, RSMo Cum. Supp. 1957, authorizes an annual levy for the maintenance and improvement of a county hospital and more fully provides as follows:

"Except in counties operating under the charter form of government, the county court in any county wherein a public hospital shall have been established as provided in sections 205.160 to 205.340, shall levy annually a rate of taxation on all property subject to its taxing powers in excess of the rates levied for other county purposes to defray the amount required for the maintenance and improvement of such public hospital, as certified to it by the board of trustees of the hospital; the tax levied for such purpose shall not be in excess of twenty cents on the one hundred dollars assessed valuation. The funds arising from the tax levied for such purpose shall be used for the purpose for which the tax was levied and none other."

It is, of course, a fundamental rule of law that any public official or official body has only such authority as is expressly given by the Constitution and statutes or as must of necessity be implied to carry out the express powers and none other.

We have fully examined the above statutory provisions, together with other statutes relating to county hospitals and the powers and duties of the hospital trustees, and do not find any provision which in our opinion would authorize the expenditure of hospital funds for a promotion or advertising campaign preceding a bond election to raise money to enlarge the county hospital. Absent such authority, we must conclude that the county hospital trustees do not have the authority to expend accumulated money in the hospital fund for the promotion or advertising campaign preceding a bond election.

Support for this conclusion is found, we believe, in the last sentence of Section 205.200, supra, which states that, "The funds arising from the tax levied for such purpose shall be used for the purpose for which the tax was levied and none

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other." Insofar as the accumulated funds to which you refer might exist because of a prior bond issue, we think that they could not be used for the purposes stated in view of our previous opinion to William E. Gladden, Prosecuting Attorney of Texas County, issued under date of February 28, 1957. You state in your letter that you have a copy of the Gladden opinion.

CONCLUSION.

Therefore, in the premises, it is the opinion of this office that the hospital board of trustees does not have the authority to spend accumulated money in the hospital fund for a promotion or advertising campaign preceding a bond election to enlarge the public hospital.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Donal D. Guffey.

Very truly yours,

JOHN M. DALTON
Attorney General

DDG:mc