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OPINION LETTER NO. 53-91

The Honorable Roger B. Wilson
Senator, District 19
State Capitol Building, Room 227
Jefferson City, Missouri 65101

Dear Senator Wilson:

This opinion letter is in response to your question asking:

The State Auditor conducted an audit of the Boone County Hospital pursuant to Section 29.230, RSMo Supp. 1990, for the year ending December 31, 1988. The hospital Board of Trustees was billed \$17,792.74 for the cost of this audit by the State Auditor.

Is the Board of Trustees, the County, or some other entity liable for payment of this debt?

Along with your question, you state:

A question has arisen over payment for the audit of Boone County Hospital. The audit was requested by a petition of residents of the county in accordance with [Section 29.230, RSMo Supp. 1990]. Although [Section 29.230] specifies that the political subdivision shall pay the cost of a petition audit, the Board of Trustees of Boone County Hospital was billed for the cost.

Section 29.230, RSMo Supp. 1990, provides in pertinent part as follows:

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29.230. To audit county offices,
when--political subdivisions by petition,
requirements, costs--petition audit
revolving trust fund created,
administration.

* * *

2. The state auditor shall audit any
political subdivision of the state,
including counties having a county auditor,
if requested to do so by a petition signed
by the requisite percent of the qualified
voters of the political subdivision
determined on the basis of the votes cast
for the office of governor in the last
election held prior to the filing of the
petition. . . .

* * *

(4) . . . The political subdivision
shall pay the actual cost of audit. . . .

In Attorney General Opinion No. 224, Lehr, 1975, a copy
of which is enclosed, we stated:

The Supreme Court of Missouri has
characterized a county hospital as a
"county entity," and an "instrumentality of
the county," and a "creature" of the
county. Fulton National Bank v. Callaway
Memorial Hospital, 465 S.W.2d 549, 551-552
(Mo. 1971). Furthermore, the court has
considered the members of the board of
trustees of county hospitals as "public
officials" of the county. State ex rel.
Holman v. Trimble, 293 S.W.2d 98, 102
(Mo. Banc 1927).

Id., p. 2. In such opinion this office concluded that the
State Auditor is obligated to include county hospitals within
the scope of the audit of counties containing a county
hospital. See also Attorney General Opinion Letter No. 174,
Sharp, 1979 (county hospital is neither a political subdivision
nor . . .), Attorney General Opinion No. 113-83 (county
hospitals are instrumentalities of the counties, not separate
political subdivisions . . .), and Attorney General Opinion No.

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107-87 (county hospital does not meet the definition of a political subdivision), copies of which are enclosed.

Based on the foregoing, we conclude that the county hospital is not a separate political subdivision. Therefore, it is the opinion of this office that the cost of the audit of Boone County Hospital should be paid by the county, the political subdivision.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General

Enclosures: Opinion No. 224, Lehr, 1975
Opinion Letter No. 174, Sharp, 1979
Opinion No. 113-83
Opinion No. 107-87