

SOCIAL SECURITY:  
COUNTY HEALTH CENTER:

Employer's contributions on county health center employees are paid from the county health center fund.



April 16, 1952

4-16-52

Honorable George Henry  
Prosecuting Attorney of  
Newton County  
Neosho, Missouri

Dear Sir:

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

"A question has arisen in this county as to who is liable for the Social Security on pay to County Health Center employees. Section 205.042 laws of the 66th General Assembly provide for the organization, powers, and duties of the trustees of the County Health Center. The last part of Paragraph 4 of said Section states that:

'All moneys received for the County Health Center shall be deposited in the County Treasury to the credit of the County Health Center Fund and paid out only upon warrants ordered drawn by the County Court upon properly authenticated vouchers of the Board of Health Center Trustees.'

"Our question is does the establishment of this special fund make the Health Center employees in effect employees of a separate organization and as such make the County Health Center Fund liable for the Social

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Security to be withheld, or is the Social Security from the Health Center employees wages to be paid out of the County Revenue Fund?"

Section 5, subsection 1 of Senate Committee Substitute for Senate Bill No. 3, provides for the coverage of public employees other than those in the employ of the State as follows:

"Each political subdivision of the state and each instrumentality of the state or of a political subdivision may submit for approval by the state agency a plan for extending the benefits of Title 2 of the Social Security Act to its employees, and are hereby authorized to, by proper ordinance or resolution, enter into and ratify any such agreement upon its approval as aforesaid. \* \* \*"

The term political subdivision is defined in Section 1, subsection 7 as follows:

"'Political subdivision', any county, township, municipal corporation, school district, or other governmental entity of equivalent rank; \* \* \*."

Section 1, subsection 6 defines the term instrumentality to be "an instrumentality of the state or of one or more of its political subdivisions but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or such political subdivision and whose employees are not by virtue of their relation to such juristic entity employees of the state or such subdivision." This definition was interpreted by this department in an opinion to the Honorable John E. Downs, Prosecuting Attorney of Buchanan County, St. Joseph, Missouri, October 25, 1951, to mean a corporate entity legally separate and distinct from the state or political subdivision.

It is quite apparent that the county health center is not a political subdivision or instrumentality as defined in Senate Committee Substitute for Senate Bill No. 3. Section 205.010 of House Bill No. 307, as enacted by the 66th General Assembly provides that any county may, as provided in this act, "establish, maintain, manage and operate a public health center if the qualified voters of the county elect by voting a tax for the maintenance and operation of a county health center to establish same." The county court shall

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appoint five trustees to manage and operate such health center for the county. Section 205.030, House Bill No. 307. Thereafter, said trustees shall be elected at the next following general election. Section 205.045, subsection 5, provides that the board of health center trustees may appoint such personnel as may be necessary for the operation of the health center as follows:

"The board of health center trustees may appoint and remove such personnel as may be necessary and fix their compensation; and shall in general carry out the spirit and intent of this chapter pertaining to establishing and maintaining a county health center."

Such employees as may be appointed under the provisions of this section are employed by the official board acting for the county and are discharging duties of an authorized and proper county function and would therefore, for the purpose of Senate Bill No. 3 be county employees.

Section 205.020 of House Bill No. 307, provides for the collection and disposition of the taxes for county health center purposes as follows:

"If a two-thirds majority of the votes cast at such election on the proposition so submitted, shall vote in favor of such tax, the county court shall proceed to levy and collect such tax and deposit same in the county treasury to the credit of the health center fund and such fund shall be expended as hereinafter provided."

Section 205.045, subsection 4 again provides for the disposition of funds received for the county health center as follows:

"\* \* \*All moneys received for the county health center shall be deposited in the county treasury to the credit of the county health center fund, and paid out only upon warrants ordered drawn by the county court upon properly authenticated vouchers of the board of health center trustees."

As you have indicated, the employees of the county health center are paid from this fund. However, the establishment of such special fund would not change such employees' status as county

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employees since the money so collected is nonetheless county funds although it is deposited in a special fund separate and apart from the general revenue of the county. However, since the county health center is for the purpose of maintaining and operating the county health center, including the salary of health center employees, we are of the opinion that the employers' contribution due upon these county employees would be classed as an operating expense of the county health center and properly chargeable to the county health center fund and so paid.

CONCLUSION

Therefore, it is the opinion of this department that the county health center employees, for the purpose of Senate Committee Substitute for Senate Bill No. 3, are covered under county employees and the county's contribution as employers would be paid from the county health center fund since such employees are paid from the county health center fund and not from the general revenue of the county.

Respectfully submitted,

D. D. GUFFEY  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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