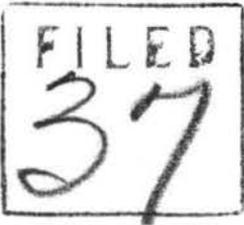


COUNTY HEALTH CENTERS: Sections 205.010 to 205.155 RSMo 1949, as amended, do not authorize the circulation of petitions in county submitting to a vote of the people a proposition to cut down a county health unit tax of ten cents, to five cents, and put that portion of the reduced levy into an indigent fund to be disbursed by a board to be appointed by someone or elected as the county board of health center trustees is elected.

April 24, 1958



Honorable Dewey L. Hankins  
Member, Missouri House of Representatives  
Cassville, Missouri

Dear Mr. Hankins:

This opinion is in answer to a question you recently submitted involving an annual levy in Barry County for the county health center. The question reads as follows:

"1. Can we circulate petitions and bring it to a vote to cut down the County Health Unit tax of 10¢ to 5¢ and put this 5¢ in an Indigent Fund to be disbursed by a board to be appointed by someone or elected as the County Health Board is."

Section 1, Article X, Missouri's Constitution of 1945, provides:

"The taxing power may be exercised by the general assembly for state purposes, and by counties and other political subdivisions under power granted to them by the general assembly for county, municipal and other corporate purposes."

The foregoing constitutional provision is clarified by the following language from State ex rel. Clinton County v. The Hannibal & St. Joseph Railroad Company, 87 Mo. 236, 1.c. 239:

"The power of taxation is a sovereign right which belongs alone to the state, and which can only be exercised in pursuance of laws passed by the legislature for the purpose."

The purpose for which the county levies a tax for a county public health center is clearly disclosed by the following language from Section 205.010 RSMo Cum. Supp. 1957:

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" \* \* \* for the establishment, maintenance, management and operation of a county health center and the maintenance of the personnel required for operation of the health center, \* \* \*."

Section 205.020 RSMo Cum. Supp. 1957, discloses what immediate disposition is to be made of the tax funds levied and collected for a county public health center, in the following language:

- "2. 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 RSMo Cum. Supp. 1957, treats the disposition of county health center funds in the following language:

"\* \* \* 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. \* \* \*"

Power to raise or lower the annual rate of taxation for a county health center within the maximum rate voted by the people is found in the following language of Section 205.045 RSMo Cum. Supp. 1957.

"In any county in which a county health center has been established, the rate of tax which has been authorized by the vote of the people of the county shall continue as the maximum rate, and the board of health center trustees shall determine annually the rate of the tax levy up to but not exceeding this maximum."

A county public health center established pursuant to authority found in Sections 205.010 to 205.150 RSMo 1949, as amended, is a creature of statute. Its formation and powers are prescribed by statute. It may be appropriately referred to as an instrumentality

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of government, and in measuring its powers it may be held to the rule applicable to counties, such rule being referred to in the following language from *Ralls County Court v. U. S.* 105 U. S. 733, 26 L. Ed. 1220, 1.c. 1222:

"It has been many times decided that county courts in Missouri, while acting as the governing bodies of their counties, which are nothing more than political subdivisions of the State, have no implied powers. Authority must be conferred on them by law to act, or they cannot act at all. This is not peculiar to the county officials of Missouri. The same principle applies to all municipal organizations in all the States, and in this respect it matters but little whether the organization exists as a full corporation or a quasi corporation. The point is that all such organizations for local government, by whatever name they may be called, have only such powers as the Legislatures of their respective States see fit to delegate to them. But all powers that are delegated may be exercised, in any proper way and at all proper times." (Emphasis supplied.)

In reviewing the statutes applicable to county health centers, Sections 205.010 to 205.155 RSMo 1949, as amended, no expressed or implied power is found authorizing residents of a county to circulate petitions for the purpose of submitting to a vote of the people a proposition to cut down a county health unit tax of ten cents to five cents and put that portion of the reduced levy into an indigent fund to be disbursed by a board to be appointed by someone or elected as the county board of health center trustees is elected.

#### CONCLUSION

It is the opinion of this office that statutes applicable to county health centers, Sections 205.010 to 205.155 RSMo 1949, as amended, do not authorize the circulation of petitions submitting to a vote of the people a proposition to cut down a county health unit tax of ten cents, to five cents, and put that portion of the reduced levy into an indigent fund to be disbursed by a board to be appointed by someone or elected as the county board of health center trustees is elected.

Honorable Dewey L. Hankins

The foregoing opinion, which I hereby approve, was prepared by my assistant, Julian L. O'Malley.

Yours very truly,

John M. Dalton  
Attorney General

JLO'M:cm