

COUNTY HEALTH CENTERS:  
COUNTY COURTS:  
HEALTH CENTER BUDGET:

County health center in county of fourth class has no power, as such, to borrow money. County courts of such county, upon request of board of health center trustees, may in its discretion issue tax anticipation notes payable out of the health center fund. Board of health center trustees may incur indebtedness and issue duly authenticated vouchers therefor upon which the county court must order vouchers drawn on the health center fund even though there is no money presently in said fund, provided said indebtedness has been duly provided for in the county health center budget.

March 16, 1961

Honorable Clifford Crouch  
Prosecuting Attorney  
Taney County  
Forsyth, Missouri



Dear Sir:

We have your recent request for an opinion which reads as follows:

"Oftimes questions arise with bank officials in Taney County regarding the authority of banks to loan money to political subdivisions, such as, counties, municipalities, school districts, road districts, and in particular, the newly established Taney County Health Center. The Health Center was approved by a majority of the voters in Taney County November, 1960; however, it will not get the benefit of 1960 revenues for use during 1961. Since the statutes require the appointment of trustees and organization thereof shortly after the approval of the voters. The Taney County Health Center finds itself in the predicament of operating during 1961 with no operating funds

The trustees have approached the Bank of Taney County, Forsyth, Missouri, for a series of loans during 1961 for the purpose of meeting expenses of initial capital outlay and current operating costs. Officials of the bank ask that I submit this problem for your consideration and study.

Here, we have facing us this basic problem: can a county or road district borrow money from a commercial lending institution to purchase a road grader, truck or other machinery on installment terms without 'floating a bond', and in particular, can the Taney County Health Center, as such, borrow money from said commercial lending institution until such time as it is in receipt of its revenues or

Honorable Clifford Crouch

must the Trustees of the Health Center sign the note as Trustees and as individuals, thereby being jointly and severally liable?"

This opinion is directed particularly to the specific problem concerning which the opinion is requested, namely:

"Can the Taney County Health Center, as such, borrow money from said commercial lending institution until such time as it is in receipt of its revenues or must the Trustees of the Health Center sign the note as Trustees and as individuals, thereby being jointly and severally liable?"

County health centers are established, maintained, managed and operated by the county pursuant to the provisions of Section 205.010, RSMo 1959, upon a two-thirds majority of the votes cast at an election called for the purpose of approving a tax for the center. Section 205.020 provides that if the necessary two-thirds majority is voted in favor of the 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." The county court is also required to appoint a board of trustees for the health center who shall hold office until their successors are elected at the next general election. Section 205.031, RSMo 1959.

Section 205.042, RSMo 1959, further provides that the board of health center trustees "shall have the exclusive control of expenditures of all moneys collected to the credit of the county health center fund, and of the purchase of site or sites, the purchase or construction of any county health center buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose." It further provides 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."

The rate of tax which is authorized by the vote of the people of the county is the maximum rate which may be levied. The board is required to determine annually the rate of the tax necessary, up to but not exceeding the maximum. Section 205.045, RSMo 1959.

Section 205.090, RSMo 1959, requires the board of county health center trustees to prepare and submit to the county budget officer a budget for the ensuing year at the time and in the manner provided by the county budget law applicable to such county.

Your opinion request states that the Taney County Health center "finds itself in the predicament of operating during 1961 with

Honorable Clifford Crouch

no operating funds" pending the collection of the 1961 tax levy for the county health center. However, these 1961 taxes, even though collected in the last two months of 1961, will nevertheless be health center revenue for the entire year 1961, and as such, available for use during the entire year, subject to statutory limitations hereinafter discussed. It is assumed of course, that the board of health center trustees in Taney County has complied with Section 205.090, RSMo 1959, by preparing and submitting a budget for 1961.

A review of the applicable statutes makes it clear that there is no authority granted to the board of county health center trustees as such to borrow any money from commercial lending institutions or otherwise. However, the want of such authority does not render the health center entirely impotent during the current year.

Section 205.042, RSMo 1959, as above noted, provides among other matters not only that the board shall have "exclusive control" of all moneys collected to the credit of the health center fund, but that all moneys received for the county health center shall be paid out from the county treasury only upon warrants ordered drawn by the county court "upon properly authenticated vouchers of the board of health center trustees." It follows that if the board of county health center trustees in operating the health center during 1961 incurs an indebtedness within the purpose of the statute under which the health center is operated, and issues properly authenticated vouchers for the payment of such indebtedness, then it becomes the duty of the county court to order warrants drawn upon the county health center fund for the payment of such vouchers.

With respect to virtually identical provisions of the county hospital law, the Supreme Court in State ex rel. Holman v. Trimble, 316 Mo. 1041, 293 S.W. 98, held that the full discretion was vested in the hospital trustees to pass upon and determine the validity of every claim presented and that the county court had no discretion when the terms of the law were otherwise met. The language of the court is as follows (293 S.W. 1.c. 101):

"\* \* \*the only judgment exercised by the county court is to determine 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 fund controlled by the hospital board, the county court could deny warrants."

It therefore appears that there is no barrier to the board of health center trustees operating under the statute and incurring indebtedness for which vouchers may be issued and warrants drawn upon the county health center fund.

Honorable Clifford Crouch

This ruling is predicated upon the assumption that the board has complied with Section 205.090, RSMo 1959, relating to the health center budget. It should be noted that Section 50.700, RSMo 1959, provides that when the clerk of the county court prepares the estimate of county revenue for the current year "ten per cent shall be deducted from total for delinquent taxes to get the net amount estimated for purpose of budget." Although this section is part of the county budget law applicable to counties of the fourth class, we are of the opinion that it is applicable to the health center budget as well. Section 205.090 provides that such budget shall be prepared and submitted "in the manner provided by the county law applicable to such county." Hence, only 90% of the anticipated revenue from the county health center tax levy may be expended during the current year. The fact that there is no money presently in the fund has no bearing upon the right of the board of health center trustees to incur such indebtedness and to require the issuance of warrants in payment thereof.

Section 50.070, RSMo 1959, provides as follows:

"The county court in counties of class one, class three and class four may, by resolution, duly passed by a majority of the judges thereof, and upon order of said court, issue negotiable notes payable in one year or less from the date of issue out of the current county revenues, respectively, to be derived from taxes or other revenues of the county of the year in which said notes are issued; but where taxes are levied for special purposes or revenues derived from special sources other than taxes resulting from a levy, the notes issued against the anticipated revenues derived therefrom shall bear a statement that the said notes are to be paid out of said special taxes or special revenues."

This statute clearly authorizes the county court in the circumstances hereinafter set out to anticipate the tax to be derived from the health center levy for the year 1961 and to issue tax anticipation notes payable out of such 1961 tax revenue.

Section 50.110, RSMo 1959, provides that the aggregate of all such notes may not exceed 90% of the anticipated revenue, and Section 50.090, RSMo 1959, provides that such notes when issued shall not exceed 10% of the total estimated revenue in any one month and the total of such notes shall not exceed 90% of the total anticipated revenue in any one year. Section 50.090 further provides that if said notes, or any thereof, shall not be issued within or at the times so fixed, they may be subsequently issued to the amount so limited. Section 50.100, RSMo 1959, provides that such notes shall be issued to mature in one or more months, but not to exceed twelve months, after date of issue, shall be payable to bearer, shall bear a rate of interest not to exceed 6% per annum from date until maturity, and shall be in

Honorable Clifford Crouch

such form as the county court may prescribe.

Therefore, the board of county health center trustees, which has the exclusive power of management with respect to the county health center, may call upon the county court to issue tax anticipation notes in compliance with the foregoing statutes payable out of the anticipated revenues to be derived from the 1961 county health center tax levy.

When so called upon, the county court is vested with discretion, under Section 50.070, RSMo 1959, either to issue such notes or to refuse to comply with the board's request. Said statute provides that the county court "may, by resolution duly passed by a majority of the judges thereof, and upon order of said court" issue the notes. There is no provision in the county health center statute which takes from the county court the discretionary power vested in such court by section 50.070 and Section 50.100. The statutory provision granting the board of county health center trustees exclusive control over all moneys collected, clearly grants to the board authority to compel the issuance of warrants in a proper case in payment of claims against the health center. Thereby it takes from the county court the control it normally exerts over the expenditure of most funds. However, it gives the board of the county health center trustees no power to borrow money nor to compel the county court to do so. The exercise of the power to issue tax anticipation notes when called upon to do so by the county health center trustees remains within the sole discretion of the county court.

It is, therefore, the opinion of this office that it is within the power of the county health center board of trustees, in furtherance of the efficient administration of such county health center, to anticipate in the foregoing manner, to the extent of 90% thereof, the current revenue from the tax levy properly extended on the tax books for the current year, provided the county court shall exercise its discretionary power to issue tax anticipation notes. When the proceeds of any such loan are deposited to the credit of the county health center fund in the county treasury, it will be the duty of the county treasurer to honor warrants duly drawn upon such fund.

It should be noted that under the provisions of Section 26 (a) Article 6 of the Missouri Constitution and the county budget laws enacted pursuant thereto, counties are required to operate on a cash basis and may not become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balance from previous years, except as otherwise provided in the constitution. The effect of the foregoing is that revenue may be anticipated only for the current year, and that the governing body may not obligate a county or other political subdivision of the state

Honorable Clifford Crouch

in a sum in excess of the revenue provided for such year. Hence, no obligations may be incurred which have the effect of anticipating revenue for any other year than the year in which the indebtedness is incurred. The only method of anticipating future revenue is by the issuance of bonds upon the requisite vote of the people of the county.

CONCLUSION

It is the opinion of this office that the Taney County Health Center as such has no power to borrow money from a commercial lending institution or otherwise, but that the Taney County Court, upon request of the board of county health center trustees, may in its discretion issue tax anticipation notes as provided for by Section 50.070, payable out of the county health center tax levy for the year 1961 in an aggregate amount of not to exceed 90 per cent of its anticipated revenue.

The board of county health center trustees may further incur indebtedness and issue duly authenticated vouchers therefor for which the Taney county court must issue vouchers drawn upon the county health center fund in payment thereof, even though there is no money presently in said fund, provided that said indebtedness has been duly provided for in the county health center budget for the year 1961.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Joseph Nessenfeld.

Yours very truly,

---

THOMAS F. EAGLETON  
Attorney General

JN:ms