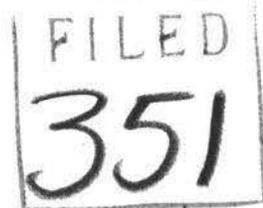


HOSPITAL DISTRICTS: A hospital district, duly organized
TAXATION: has authority to levy taxes under the
provisions of Chapter 206 before a
hospital is actually constructed and operating. Such funds
can be used to buy land for the hospital site, construct the
hospital and/or other purposes set out in Section 206.110
RSMo., Cum. Supp. 1963.

OPINION NO. 351

December 2, 1965



Honorable William Baxter Waters
State Senator, 17th District
First National Bank Building
Liberty, Missouri

Dear Senator Waters:

This opinion is given in response to your questions based on the following facts as restated by this office:

The Liberty Hospital District of Clay County was duly created under Chapter 206, Cum. Supp. RSMo 1963. Directors had been elected, qualified and meetings held. No hospital has been authorized nor any hospital operated in the district by the board.

By your amending letter sent to this office, you state that taxes have never been levied by the board. The funds expended so far by the board have come from a federal planning grant. You also stated the bond issue to construct a hospital was presented to the public but was voted down.

Based on these facts, you submitted two questions which we understand to be as follows:

1. Does the statute authorize the collection of a tax before a district hospital is actually in operation?
2. If the above question is answered in the affirmative can the money so raised by taxes be used for any of the purposes enumerated in Section 206.110 to include

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the purchase of land for the site of a hospital.

Considering your questions seratim, your first question is answered in the affirmative.

A tax may not be levied unless expressly authorized by statute, "No statute, no tax". When authorized, a tax may be levied only within the terms of the statute (State ex rel v. Missouri Valley Drainage District of Holt County, 185 S.W. 2d 800, 802).

Section 206.060, RSMo., Cum. Supp. 1963, provides in part as follows:

"The notice shall further state that any district upon its establishment shall have the powers, objects and purposes provided by this chapter, and shall have the power to levy a property tax not to exceed fifteen cents on the one hundred dollars valuation."
(Underscoring supplied)

Section 206.110, RSMo., Cum. Supp. 1963, reads in part as follows:

"A hospital district shall have and exercise the following governmental powers, and all other powers incidental, necessary, convenient or desirable to carry out and effectuate the express powers:

(1) To establish and maintain a hospital and hospital facilities within its corporate limits, and to construct, acquire, develop, expand, extend and improve any such hospital or hospital facility.

(2) To acquire land in fee simple, rights in land and easements upon, over or across land and leasehold interests in land and tangible and intangible personal property used or

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useful for the location, establishment, maintenance, development, expansion, extension or improvement of any hospital or hospital facility. The acquisition may be by dedication, purchase, gift, agreement, lease, use or adverse possession or by condemnation.

(5) To borrow money and to issue bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in this chapter or otherwise provided by the constitution of the state of Missouri.

The above section provides in its preamble that the district "shall have the following governmental powers and all other powers incidental, necessary, convenient or desirable to carry out and effectuate the expressed powers" (which are thereafter enumerated).

In construing the statutes, we must first seek the lawmakers intention for the whole act and if possible to effectuate that intention (Kirkwood Drug Company v. City of Kirkwood, 387 S.W. 2d 550, 554).

Having in mind the provision of the statutes relative to imposing the tax adverted to above and the broad grant of authority under Section 206.110, this office concludes that the legislature intended to grant to a hospital district the authority, when duly constituted, to impose taxes so that the board can effectuate the powers set out in Section 206.110, supra. To "establish" and "to acquire land" (under Section 206.110) for the hospital necessarily implies the authority to buy land before the hospital can be built thereon. If authority is granted to buy land, it must necessarily follow that the district accumulate the money to pay for the land and to do those preliminary things necessary to build the hospital. We therefore conclude that the power to tax exists in the district before a hospital is actually constructed and operated.

Land for the hospital site is by definition included in

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subsection (2) of Section 206.110, supra,. You refer in your amending letter to Section 206.120, which you feel might imply that bonds must be voted for the purpose of purchasing sites and erecting buildings. The section provides in part that "the Board of Directors may borrow money and issue bonds", etc.

As we read the statute, this may be considered one way for the district to raise the money to build the hospital. For example, another way of securing money to build the hospital might be by gift. It appears to us, therefore, that when the money is not acquired under the provisions of Section 206.120, that the limitations (implied under that section) cannot be applied to moneys accumulated by other means.

A further comment in this area may be appropriate. It is, that although the hospital board is authorized to construct a hospital etc., this grant of power is limited by the provisions of Article VI, Section 26(a) of the Missouri Constitution, 1945, which, in substance, prohibits the board from incurring any indebtedness in any year exceeding the income and revenue provided for such year plus the unencumbered balance of any previous years (except by a two-thirds vote of the qualified electors of such district authorizing the incurring of an indebtedness).

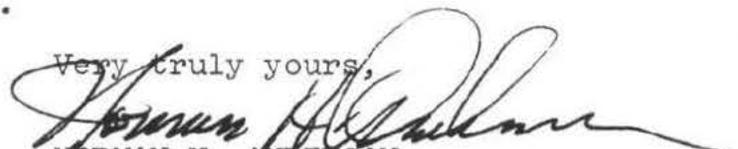
The second question cannot be answered inasmuch as the question is so broad as to encompass tax money to "be used for any of the purposes enumerated in Section 206.110, RSMo., Cum. Supp. 1963". Any attempt to generalize on disbursements "for any of the purposes enumerated in Section 206.110" (supra) is not feasible except when based on specific facts. If a question on a specific disbursement arises, then it is suggested you submit that question for solution.

CONCLUSION

It is the opinion of this office that a hospital district board duly organized under Chapter 206, Cum. Supp. RSMo., 1963, has the authority to levy a tax before a district hospital is actually constructed and operating.

The above opinion, which I hereby approve, was prepared by my assistant, Richard C. Ashby.

Very truly yours,



NORMAN H. ANDERSON
Attorney General