

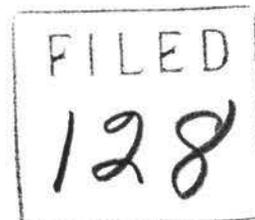
COUNTY HOSPITAL: County hospital trustees have exclusive
MAINTENANCE FUND: BALANCE: control and expenditure of all money
COUNTY COURT CANNOT TRANSFER: collected to credit of county hospital
fund under Section 205.190, RSMo Cum.

Supp. 1965, including taxes levied for hospital maintenance, under
Section 205.200, RSMo Cum. Supp. 1965. Tax levy under said section may
be used for maintenance, improvement, construction and furnishing
necessary hospital additions. Said tax proceeds shall be used for pur-
pose for which tax levied and none other. County court is unauthorized
to transfer unused balance of hospital maintenance fund to county road
and bridge fund or to county revenue fund.

OPINION NO. 128

May 31, 1967

Honorable Zane White
Prosecuting Attorney
Phelps County
Rolla, Missouri



Dear Mr. White:

This office is in receipt of your request for a legal opinion,
reading as follows:

"It has been brought to their attention [County
Court] that there may be a surplus of money in
the maintenance account of the Phelps County
Memorial Hospital. This is supported by a tax
levy of Phelps County tax payers.

The Phelps County Court would like to know if
this surplus could be transferred to the County
Road and Bridge Fund or County Revenue Fund,
if it were agreeable to all parties concerned?"

Section 50.020, RSMo 1959, provides when the county court may
order an unused balance remaining in a county fund transferred to
another fund and reads as follows:

"Whenever there is a balance in any county
treasury in this state to the credit of
any special fund, which is no longer needed
for the purpose for which it was raised,
the county court may, by order of record,
direct that said balance be transferred to
the credit of the general revenue fund of
the county, or to such other fund as may,
in their judgment, be in need of such bal-
ance."

Section 50.030, RSMo 1959, construes the preceding section, and reads as follows:

"Nothing in section 50.020 shall be construed to authorize any county court to transfer or consolidate any funds not otherwise provided for by law, excepting balances of funds of which the objects of their creation are and have been fully satisfied."

Section 50.030, supra, specifically provides that nothing in Section 50.020, supra, shall be construed to authorize the county court to transfer or consolidate any funds not otherwise provided for by law.

It is believed the county hospital fund and any surplus of same, has been otherwise provided for by law within the meaning of Section 50.030, supra, and that Sections 50.020 and 50.030, are inapplicable and no authority for transfer of any surplus hospital funds.

In this connection we call your attention to a portion of Section 205.190, RSMo Cum. Supp. 1965, referring to the duties of county hospital trustees, and reading as follows:

"* * * They shall have the exclusive control of the expenditures of all moneys collected to the credit of the hospital fund, and of the purchase of site or sites, the purchase or construction of any hospital buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose; provided, that all moneys received for such hospital shall be deposited in the treasury of the county to the credit of the hospital fund, and paid out only upon warrants ordered drawn by the county court of said county upon the properly authenticated vouchers of the hospital board.* * *"

From the above quoted portion of Section 205.190, it clearly appears the hospital board of trustees have been given exclusive control of the hospital fund, and it can be paid out only upon warrants ordered by the county court, and then only, when properly authenticated vouchers are first presented to the court, the hospital board and not the county court has exclusive control over the hospital fund and expenditures of same.

Section 205.200 RSMo Cum. Supp. 1965, provides as follows:

"1. Except in counties operating under the charter form of government, the county court in any county wherein a public hospital shall have been established as provided in sections 205.160 to 205.340, shall levy annually a rate of taxation on all property subject to its taxing powers in excess of the rates levied for other county purposes to defray the amount required for the maintenance and improvement of such public hospital and for constructing and furnishing necessary additions thereto, as certified to it by the board of trustees of the hospital; the tax levied for such purpose shall not be in excess of twenty cents on the one hundred dollars assessed valuation. The funds arising from the tax levied for such purpose shall be used for the purpose for which the tax was levied and none other.

"2. Any funds of the hospital, whether derived from the tax authorized by this section or from the operation of the hospital, and whether collected before or after October 13, 1965, may be used for constructing and furnishing necessary additions to the hospital."

Phelps County does not operate under a charter form of government, and Section 205.200, supra, is applicable to said county.

In view of the fact the board of trustees of the Phelps County Memorial Hospital, and not the county court of Phelps County have exclusive control over the hospital fund, including taxes levied for maintenance of said hospital under provisions of Section 205.200, supra, and also in view of the fact any funds arising from a tax levy under said section can be used for the purpose provided by said section, such as maintenance, improvement, constructing, and furnishing necessary additions to the hospital, and for no other purpose, the Phelps County Court is unauthorized to transfer any unused balance remaining in the maintenance fund of the Phelps County Memorial Hospital, to the County Road and Bridge Fund, or to general revenue of said Phelps County.

CONCLUSION

Therefore, it is the opinion of this office that the board of trustees of a county hospital has exclusive control over all

Honorable Zane White

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money collected to the credit of the hospital fund and of the expenditure of same as provided by Section 205.190, RSMo Cum. Supp. 1965, including taxes levied for the maintenance of the hospital, under provisions of Section 205.200, RSMo Cum. Supp. 1965. A tax levy made under provisions of said section may be used for maintenance, improvement, construction and furnishing necessary additions to the hospital, and such proceeds, shall be used for the purpose for which the tax was levied and none other. The county court is not authorized to transfer any unused balance remaining in the hospital maintenance fund to the county road and bridge fund or to the county revenue fund.

The foregoing opinion which I hereby approve was prepared by my Assistant, Paul N. Chitwood.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Norman H. Anderson".

NORMAN H. ANDERSON
Attorney General