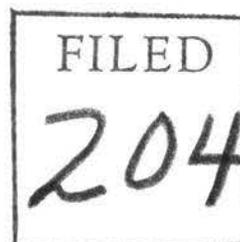


See Amendment to Ch. 105

May 9, 1968

OPINION NO. 204
Answered by letter-Mansur

Honorable Charles H. Dickey, Jr.
State Representative
Missouri House of Representatives
P. O. Box 22
Mexico, Missouri 65265



Dear Representative Dickey:

Recently you requested an opinion from this office concerning trustees of a county hospital as follows:

"1. Even though it has nothing to do with selecting the depositories for county funds, does a county hospital's board of trustees in effect transact business with banks serving as depositories of county funds, when the board of trustees decides to increase or diminish the amount of hospital money on deposit in the treasury of the county?

"2. Is a member of the board of trustees of a county hospital, who at the same time is a member of the board of directors of a bank serving as a depository for county funds, entering into discussion and voting on questions of increasing financial charges and of increasing the average daily bank balance of the hospital involved in a conflict of public and private interests?

"3. Is a member of the board of trustees of a county hospital, who becomes a member of the board of directors of a bank serving as a depository of county funds within thirty days after having entered into a discussion and voting on the question of increasing financial

Honorable Charles H. Dickey, Jr.

charges made by the hospital, involved in a conflict of public and private interests?"

We are enclosing herewith Opinion No. 85, issued by this office on January 30, 1968, to the Honorable Charles H. Sloan, Prosecuting Attorney, Ray County, holding that all funds belonging to a county hospital must be deposited with the county treasury under Section 205.190, RSMo Supp. We are also enclosing herewith Opinion No. 282, issued June 28, 1966, to the Honorable Elbert F. Turner, Prosecuting Attorney, Mountain Grove, Missouri, in which it was ruled that the term "transacting business" as used in connection with matters in conflict interests apply to transactions in which the officer or agency involved has the discretion or authority to transact such business. If the officer or agent does not have authority to do the act, he does not violate the statute when he does it because it would be beyond his official duties.

Section 205.190, RSMo Supp., provides that the county treasurer shall be the treasurer of the Board of Trustees of the county hospital and that he shall receive and pay out all monies belonging to the hospital as ordered by the Board of Trustees. It further provides that all monies received by the hospital shall be deposited in the county treasury to the credit of the hospital fund and paid out only upon warrants ordered drawn by the county court upon properly authenticated vouchers issued by the trustees.

The enclosed Opinion No. 85 summarizes the authorities and duties of the Director of the hospital in the management of the funds of the county hospital. All the funds of the hospital have to be turned over to the county treasury. The monies may be withdrawn only on a warrant ordered drawn by the county court upon properly authenticated vouchers of the hospital board for the expenses and operation of the hospital as provided in Section 205.190. The director has no authority to withdraw the funds for investment purposes. Certainly, if the payment of legitimate expenses in connection with the operation of the hospital results in a fluctuation in the hospital account with the county treasury it would not violate any provision of the statute. If the provisions of these statutes are complied with by the trustees of the hospital, we are unable to see how the conflict of interest statute could be violated.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

MM:maw

Enclosures: Op. No. 85
Sloan, 1-30-68 *Withdrawn*

Op. No. 282
Turner, 6-28-66 *Withdrawn*