



STATE OF KANSAS

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June 24, 1985

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ATTORNEY GENERAL OPINION NO. 85- 70

Edward J. Gaschler
Scott County Attorney
325 Main Street
P.O. Box 605
Scott City, Kansas 67871

Re: Counties and County Officers -- Hospitals --
County Hospitals; Hospital Moneys; Lease and
Management of Hospital Facility

Synopsis: Pursuant to K.S.A. 1984 Supp. 19-4611(a) and (d), the board of trustees of a county hospital may contract with a corporation for the lease and management of the facility. Under the terms of an agreement between the Scott County Hospital Board of Trustees and the Great Plains Health Alliance, Inc., an operating fund is maintained through the use of tax money derived from a county mill levy. Accordingly, such a fund contains "hospital moneys," as that term is defined by K.S.A. 1984 Supp. 19-4601(d). Under K.S.A. 1984 Supp. 19-4608(c), as amended, "hospital moneys" are deemed to be public moneys, and are subject to the pledging requirements of K.S.A. 1984 Supp. 9-1402, as amended. Therefore, moneys contained in the operating fund of Scott County Hospital are subject to the provisions of K.S.A. 1984 Supp. 9-1402 as amended. Cited herein: K.S.A. 1984 Supp. 9-1402, as amended by 1985 House Bill No. 2122; K.S.A. 9-1407; K.S.A. 1984 Supp. 19-4601; 19-4606; 19-4608, as amended by 1985 House Bill No. 2467; 19-4611.

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Dear Mr. Gaschler:

As County Attorney for Scott County, Kansas, you request our opinion on a question concerning the Scott County Hospital, which is owned by the county and currently managed by the Great Plains Health Alliance, Inc., pursuant to a lease and management agreement. K.S.A. 1984 Supp. 19-4611. Specifically, you inquire whether money contained in the hospital's operating account is public money subject to the pledging requirements of K.S.A. 1984 Supp. 9-1402, as amended by 1985 House Bill No. 2122. That statute requires a financial institution (i.e. bank, savings and loan association, trust company or savings bank) to secure a deposit of "public money" through the pledging of securities equal to 100% of the amount deposited. As a practical matter, the effect of this statute and K.S.A. 9-1407 is to require securities to be pledged for the amount of any deposit in excess of \$100,000, which is the amount secured by federal insurance.

In our opinion, the answer to your inquiry is in the affirmative, as it is our conclusion that money held in the hospital operating account is public money under both the hospital statutes and K.S.A. 1984 Supp. 9-1402, as amended. The latter statute provides in pertinent part:

"(a) Before any deposit of public moneys or funds shall be made by any municipal corporation or quasi-municipal corporation of the state of Kansas with any state or national bank, trust company, state or federally chartered savings and loan association or federally chartered savings bank, such municipal or quasi-municipal corporation shall obtain security for such deposit in one of the following manners prescribed by this section."

The statute goes on to provide methods of securing such deposits, which include giving a personal or corporate surety bond or providing securities the market value of which is equal to no less than 100% of the total deposits of public money. K.S.A. 1984 Supp. 9-1402(b), (c) and (d), as amended.

K.S.A. 1984 Supp. 19-4608, as amended by 1985 House Bill No. 2467, states clearly [at subsection (c)] that:

"Hospital moneys shall be deemed public moneys and hospital moneys not immediately required for the purposes for which acquired may be invested in accordance with the provisions of

K.S.A. 12-1675 and amendments thereto.
Hospital moneys acquired through the receipt
of grants, donations, bequests or gifts and
deposited pursuant to the provisions of K.S.A.
12-1675 and amendments thereto need not be
secured as required under K.S.A. 9-1402 and
amendments thereto." (Emphasis added.)

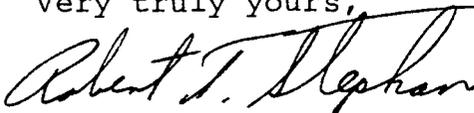
The final piece to the statutory puzzle is provided by K.S.A. 1984 Supp. 19-4601(d), which defines "hospital moneys" to include:

"Moneys acquired through the issuance of bonds, the levy of taxes, the receipt of grants, donations, gifts, bequests, interest earned on investments authorized by this act and state or federal aid and from fees and charges for use of and services provided by the hospital." (Emphasis added.)

The language of the lease and management agreement which you submitted with your letter indicates that the operating fund which the county agrees to establish and maintain at a minimum level of \$40,000 consists of money derived from the mill levy imposed by the county for the hospital. K.S.A. 1984 Supp. 19-4606(a). Therefore, the operating fund, pursuant to K.S.A. 1984 Supp. 19-4601(d), consists of "hospital moneys" which are also "public moneys" under K.S.A. 1984 Supp. 19-4608(c), as amended. Any financial institution of the type included in K.S.A. 9-1402(a) as amended, would accordingly be required to secure the deposit of the operating fund using one of the methods permitted by the statute.

We trust this opinion is responsive to your concerns. Should you have further questions, please let us know.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Deputy Attorney General