



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

June 10, 1953

Hon. Lloyd G. Rust, Jr.      Opinion No. S-50  
County Attorney  
Wharton County  
Wharton, Texas

Re: Authority of the commis-  
sioners' court to use funds  
in the "General Fund Hospi-  
tal Reserve Account" to  
construct an addition to  
Wharton County Nightingale  
Hospital.

Dear Sir:

You have asked us the following question:

"Can Wharton County pay part of the construction costs of an addition of some twelve rooms to Wharton County Nightingale Hospital out of money held by the Treasurer in the General Fund Hospital Reserve Account, which money was acquired as net operating profits of the Wharton County Nightingale Hospital in prior years and turned over to the Treasurer of Wharton County as profits derived from the operation of said hospital and kept by him in said General Fund Hospital Reserve Account?"

This office held in Attorney General Opinion V-567 (1948):

". . . tax money raised for hospital maintenance purposes comes from the general fund levy, whereas tax money for the establishment and construction of a county hospital comes from the permanent improvement levy. Therefore, the Commissioners' Court is without authority to appropriate hospital maintenance funds for hospital construction purposes, for such appropriation would constitute an unlawful transfer and diversion of constitutional funds." Article VIII, Sec. 9, Tex. Const.; Carroll v. Williams, 109 Tex. 155, 202 S.W. 504 (1918).

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Construction of an addition to Wharton County Hospital is a permanent improvement, and cannot be paid from general funds.

Therefore, we agree with your conclusion that Wharton County is not authorized to use money in the general fund hospital reserve account, same being a part of the general fund, for the purpose of constructing an addition to Wharton County Hospital.

We are enclosing copies of Attorney General Opinions V-567 (1948) and V-608 (1948).

SUMMARY

Wharton County is not authorized to use money in general fund hospital reserve account (general fund) for the purpose of constructing an addition to Wharton County Hospital. Art. VIII, Sec. 9, Tex. Const.

Yours very truly,

APPROVED:

JOHN BEN SHEPPERD  
Attorney General

J. C. Davis, Jr.  
County Affairs Division

Willis E. Gresham  
Reviewer

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SCR:am

Encls.