



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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ATTORNEY GENERAL**

May 1, 1975

The Honorable Chet Brooks
Chairman
Senate Committee on Human
Resources
Capitol Building
Austin, Texas 78711

Letter Advisory No. 101

Re: Authority of a county to
transfer revenue sharing
funds to a hospital when
those funds are directly
attributable to the taxing
effort of the hospital district.

Dear Senator Brooks:

You have requested our opinion as to whether a county may constitutionally transfer to a hospital district that portion of its revenue sharing funds the receipt of which is attributable to the hospital district's taxing efforts.

Federal revenue sharing funds are allocated to local governments partially on the basis of local taxing efforts. 31 U.S.C. 1228(d), (e). You note in your request that hospital districts do not receive revenue sharing funds directly from the federal government, and only since April 1974 have they been classified as "dependent governmental units" of counties and their tax revenues included in the counties' taxing efforts, thus permitting a larger allocation of revenue sharing funds to the county.

Article 9, sections 4 and 9 of the Texas Constitution contain provisions prohibiting counties and cities from levying any taxes for hospital purposes. In our opinion these provisions are inapplicable, for even if most federal revenue sharing funds are within this prohibition since they are attributable to the county taxing effort, the subject funds are clearly not since their receipt is attributable to hospital district taxes.

Article 3, section 52 of the Texas Constitution prohibits political subdivisions from granting public money to any corporation or association. The Texas Supreme Court addressed a similar restriction in article 3, section 51, in Bexar County Hospital District v. Crosby, 327 S. W. 2d 445 (Tex. Sup. 1959). The Court upheld a statute providing for the transfer to hospital districts of the delinquent taxes collected by cities and counties for hospital purposes. The taxes were assessed prior to the formation of the districts.

The effect of the legislative act was to provide that since the District was charged with the duty and responsibility of maintaining and operating the hospitals in Bexar County, the taxes levied for that purpose should be administered by it. To our minds that is not a grant of public funds within the constitutional inhibition. Bexar County Hospital District v. Crosby, supra at 448.

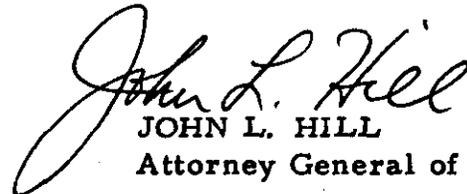
In our view these revenue sharing funds are quite similar to the taxes held by the city in Crosby. While their use is not limited to hospital purposes, "health" is a "priority expenditure." 31 U. S. C. 1222 (a)(1)(D). The funds are available to the county only by virtue of the district's taxes. Under a more specialized distribution process these funds would go directly from the federal government to the district. That the federal government has selected counties as the primary recipient while contemplating the further distribution to the appropriate bodies, (see 31 U. S. C. 1228(a)(6)) does not, in our opinion, alter the character of the funds. Since they derive from the district's taxing efforts, their transfer to the district is not a grant of public money within the meaning of article 3, sections 51 and 52 of the Texas Constitution.

Consequently, our decision in Attorney General Opinion H-367 (1974) is not controlling here, for that opinion concerned the transfer of federal revenue sharing funds generally, rather than only that part attributable to the district's taxing efforts.

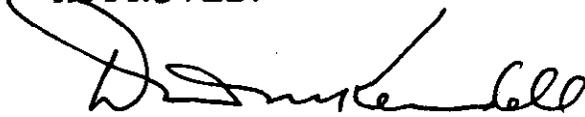
SUMMARY

Where a portion of a county's federal revenue sharing funds can be identified as solely attributable to the taxing efforts of a hospital district, the transfer of such portion is not violative of article 9, sections 4 and 9, nor of article 3, sections 51 and 52, of the Texas Constitution.

Very truly yours,


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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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