

Approved 1-31-83  
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at  
Chairperson

1:30 a.m./p.m. on January 24, 1983 in room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department  
Bruce Hurd, Revisor of Statutes Office

Conferees appearing before the committee:

- Bradley Smoot, Deputy Attorney General , State of Kansas
- William Davidson, Trustee of Newman Memorial Hospital, Emporia, Kansas
- Don Wilson, President of Kansas Hospital Association
- Rebecca Kupper, Kansas Hospital Association
- Fred Allen, Kansas Association of Counties

Visitor's list (Attachment No.1.)

Chairman called meeting to order.

Chairman announced again that when a conferee is speaking, the committee may address their questions to the speaker in an orderly fashion, and need not be recognized by the chair as long as this procedure goes smoothly.

Brad Smoot of the Attorney General's office was recognized to testify on HB 2002. He distributed a packet of materials related to this bill, See Attachment No.2.)

Mr. Smoot confirms that his office feels this is a very carefully drafted bill and a very well considered bill. It brings together a lot of major points that his office has had to rule opinions on. He offered to provide some assistance in wording on Section 7.(c), that might help clarify the handling of the budget process.

Mr. William Davidson was recognized to testify on HB 2002. He stated that there is a very well running 3 year Nursing program at Emporia State Univ. and he strongly wishes that this will not be affected by changes in this bill. He further feels that County commissioners would not be able to devote sufficient time to making the judgements necessary for efficient Hospital management. He referred to questions he had on wording in Section 5, and Section 7 (c).

Rebecca Kupper of the Kansas Hospital Association was recognized to testify on HB 2002 as well. She distributed her prepared statement to all committee and staff. See attachment (No. 3.)

Ms. Kupper indicated that members of the KHA are concerned about this bill. Section 1.(c), there is concern that the definition of "hospital", incorporated in this bill is much too restrictive.

Section 5. (a), the language appears to give the county commission discretionary authority regarding the appointment of a hospital board.

Section 5. (b), appears that the county commission is given the authority to change the structure of the hospital board whenever they please, by resolution.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 ~~4:30~~ p.m. on January 24, 1983

Section 7. (c), The county hospitals strongly object to the provisions in this section which would allow the county commission to amend or modify the hospital budget.

For further details on Ms. Kupper's remarks, refer to Attachment No.3.

Mr. Don Wilson was recognized to testify before the committee on HB 2002, and gave his concerns which were in near alignment with Ms. Kupper's statement.

Mr. Fred Allen, representing the Kansas Association of Counties, was recognized to testify before the committee on HB 2002. He had notified counties of the hearings on this bill and had responses from many, and spoke in their behalf. He said basically they are in agreement with this bill. He commented positively on the sections 5 and 7, and feels the language of the bill is good.

A letter from Mr. William E. Tucker, Chairman of Governing Board of the Morton County Hospital was distributed to committee members and staff.  
(See Attachment No. 4.)

Questions and answers and discussion took place during and after the conferees spoke.

Chairman noted, if there are no other conferees in Tuesday's committee meeting on HB 2002, we will use the time for briefing by Emalene Correll on HB 2003, as those hearings will follow in Wednesday's committee meeting.

Meeting adjourned at 2:45 p.m.





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

January 24, 1983

The Honorable Marvin L. Littlejohn  
Chairman, House Public Health and  
Welfare Committee  
Room 422-S, Capitol  
Topeka, Kansas 66612

Dear Mr. Chairman and Members:

Attorney General Stephan asks that I extend his sincere thanks for this opportunity to comment regarding 1983 House Bill No. 2002 concerning county hospitals. He also asks that I note the fine efforts of the Interim Committee which prepared this Bill. We know of the countless hours of work involved in its preparation and it is our view that this legislation is very responsive to the needs of Kansas counties and their public hospitals. We endorse House Bill No. 2002.

As many of the Committee members are aware, this Bill is a response, at least in part, to the Attorney General's request that the Legislature rewrite the numerous, conflicting and confusing sections of the current statutes. K.S.A. 19-1801 et seq. I enclose a copy of our 1981 letter to Senator Doyen and the Coordinating Council requesting the study of county hospital laws. The Attorney General's interest is a result of all too numerous requests for legal advice from the county hospitals which clearly demonstrated the need for reform of existing laws. I have enclosed copies of the synopsis of many of these opinions to illustrate the scope and difficulty of the legal problems inherent in the one hundred or so statutes passed as special legislation since 1933.

1983 House Bill No. 2002 resolves most of the legal confusion caused by existing laws. It clarifies the lines of authority between the county commission and the board of hospital trustees. It clarifies the financing of capital improvements including medical clinics and long term care facilities. It resolves

(Attachment  
No. 2.)

Marvin L. Littlejohn  
Page Two  
January 24, 1983

complex legal debates over application of the cash basis law, the law governing the investment of idle funds, the law concerning private donations and loans to medical students. The Bill has been carefully drafted and considered. It warrants this Committee's endorsement.

We do note, however, two unique legal questions remaining. First, we are advised that there is some opposition to this Bill due to new Section 7(c). That subsection creates a new local budget drafting procedure which authorizes the county commission to ultimately determine the budget of the hospital. It is felt by some that this new language grants to county commissions authority to "line item" appropriate or veto the proposed hospital budget submitted by the hospital board of trustees. This is believed to be a significant departure from the current practice of the certifying of an amount to the county now accomplished pursuant to K.S.A. 19-1804.

After a careful examination of this provision, however, attorneys in our office believe that new Section 7(c) does not grant "line item veto" power to county commissions. In our opinion the county will continue to identify a single total amount for hospital purposes for which the county hospital tax will be levied. That amount will be the "hospital fund" of the county budget. Although further breakdown in the budget documents may identify special purposes for which the hospital proposes to use such funds, the law does not restrict the trustees of the hospital from moving funds from one purpose to another within their appropriated fund. The Kansas budget law does not restrict transfers within a fund of the county by a county officer authorized to expend money from such fund. See K.S.A. 79-2925(b).

If there continues to be confusion over this point, our office would be happy to respond to an opinion request from the committee to clarify the issue.

Our second concern involves Section 27. That section makes technical amendment to K.S.A. 1982 Supp. 79-1947 in line 0654. We have no concern over this amendment itself. However, the inclusion of an amendment to a statute which is non-uniform in its application to counties has the effect of making the entire Bill non-uniform and subject to charter resolution under county home rule. See lines 0624 through 0636.

We suggest that if the Committee desires uniformity in this enactment, it should delete Section 27 and make the technical amendments to K.S.A. 1982 Supp. 79-1947 in a separate bill. We base our conclusion on the case of Griffin v. City of Junction City, 227 Kan. 332 (1980).

Marvin L. Littlejohn  
Page Three  
January 24, 1983

In summary, the Attorney General supports 1983 House Bill No. 2002. The Bill is a step toward better local government in Kansas. Although it sometimes is difficult to get excited about comprehensive revisions such as this because of the lack of popular awareness, this measure deserves your attention and support.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
ROBERT T. STEPHAN



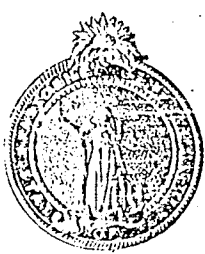
Bradley J. Smoot  
Deputy Attorney General

BJS:hle

Enc.

FILE

Subject Counties - Building  
Hospitals  
Copy to \_\_\_\_\_  
\_\_\_\_\_



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

April 5, 1979

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 47

Steven E. Worcester  
County Attorney  
Graham County  
413 North Pomeroy Avenue  
Hill City, Kansas 67642

Re: Counties and County Officers--Hospitals--Medical Clinics

Synopsis: The hospital board may not purchase or construct a medical clinic using funds derived from a bond issue or tax levy; however, funds derived from other sources, not otherwise restricted, may be used to construct a medical clinic without an election.

The county commission may not purchase or construct a medical clinic using funds derived from a bond issue or tax levy without a prior election.

The hospital board may not lease a medical clinic using funds derived from a bond issue or tax levy; however, funds derived from other sources, not otherwise restricted, may be used to lease a medical clinic without an election.

The hospital board may not purchase a medical clinic using funds obtained by a two-mill tax levy for the hospital.

The county commission may not purchase or construct a medical clinic using funds obtained by a two-mill tax levy for the hospital and now under the control of the hospital board.

FILE  
Subject Health Public -  
Hospitals Personnel  
Copy to \_\_\_\_\_  
\_\_\_\_\_



FILE  
Subject Counties - -  
Buildings - -  
Copy to Hospitals  
\_\_\_\_\_

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

April 23, 1979

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 67

Stanley E. Antrim  
Attorney for Southwest Medical Center  
Light, Yoxall, Antrim & Richardson  
P. O. Box 1278  
Liberal, Kansas 67901

Re: Counties and County Officers--Hospitals--Appointment  
of Administrator

Synopsis: A hospital created pursuant to K.S.A. 1978 Supp.  
19-1801 et seq. may contract for managerial  
services for the operation of a county hospital  
wherein an employee of the services provider is  
appointed as administrator of the hospital.

\* \* \*

Dear Mr. Antrim:

You inquire on behalf of your client, Southwest Medical Center, a county hospital located in Seward County, Kansas, established pursuant to K.S.A. 19-1801 et seq., regarding a proposed contract between Southwest Medical Center and Wesley Medical Center of Wichita, Kansas. Your opinion request is forwarded to this office by counsel for Wesley Medical Center.

Specifically, you inquire if Southwest Medical Center, hereinafter referred to as "hospital," may legally enter into a contract for professional managerial services with Wesley Medical Center, hereinafter referred to as "Wesley," wherein Wesley agrees to provide "the full time services of a qualified hospital administrator recruited, examined and employed by WESLEY." See Section 2, Article D, Paragraph 2 of the agreement.



3/16/80  
OK  
Bieker



FILE  
Subject Counties  
Buildings  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

March 25, 1980

MAIN PHONE (913) 296-2215  
CONSUMER PROTECTION 296-3751  
ANTITRUST 296-5299

ATTORNEY GENERAL OPINION NO. 80- 78

Charles F. Bennett  
Attorney at Law  
222 West Main  
P. O. Box 852  
Chanute, Kansas 66720

Re: Counties and County Officers--Hospitals--Medical Clinics

Synopsis: The Board of Trustees of the Neosho Memorial Hospital possesses the authority to remodel an existing structure owned by it for the purpose of converting the same into a medical clinic, and, thereafter, lease the clinic to a doctor or doctors. The board, however, may not finance the project using funds derived from a bond issue for some other purpose, or a tax levy imposition. However, funds derived from hospital business receipts, grants and unrestricted donations may be used to finance the project. Cited herein: K.S.A. 19-18,117.

\*

\*

\*

Dear Mr. Bennett:

As attorney for the Neosho Memorial Hospital, a county hospital, you request our opinion concerning the following inquires:

1. Does a Board of Trustees of a county hospital possess the authority to convert a former residence owned by it into a medical clinic and, thereafter, lease the clinic to a person or persons engaged in medical practice?
2. If question number one is answered in the affirmative, what source or sources of revenue, if any, are available to pay for the project?

OR 7/30/79  
S.M.C. +



FILE  
Subject Counties  
Buildings  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

March 26, 1980

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 80-79

David R. Heger  
Miami County Attorney  
Box 245  
Paola, Kansas 66071

Re: Counties and County Officers--Hospitals--When  
Election Required for Tax Levy

Synopsis: The levy authorized by the voters of Miami County in 1952 constitutes continuing authority for the county to levy up to two (2) mills for hospital purposes. No additional election is required to raise the mill rate to this limit. However, if bonds are to be issued pursuant to K.S.A. 1979 Supp. 19-1869 to finance construction and equipping of an addition to the hospital, an election is required. Statutes cited: K.S.A. 1979 Supp. 19-1801, 19-1809, 19-1869; K.S.A. 79-1947.

\* \* \*

Dear Mr. Heger:

You inquire whether the board of commissioners of Miami County, Kansas, may levy up to two (2) mills tax pursuant to K.S.A. 1979 Supp. 19-1801 for the maintenance of the county hospital. You advise that in 1952 the voters of Miami County authorized the county commission to levy up to two (2) mills for the "establishment and maintenance of a Public Hospital." See Exhibit A, attached. The board of county commissioners believed it could not use the two-mill levy after the \$350,000 bond issue to construct the hospital was satisfied. Subsequently, the county has provided \$40,000 annually to the hospital budget under the authority of K.S.A. 1979 Supp. 19-1809.

OR 25780  
7/21/80  
SMOOK



FILE  
Subject Counties  
Buildings  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

September 23, 1980

ATTORNEY GENERAL OPINION NO. 80-200

Steven E. Worcester, County Attorney  
413 North Pomeroy Avenue  
Hill City, Kansas 67642

Re: Counties and County Officers--Hospitals--Power of Board  
of Trustees To Purchase Private Housing

Synopsis: The board of trustees of a county hospital may not use hospital funds to purchase real property to provide a doctor or other hospital employee with a home; the board may not use hospital funds to make a personal loan to a doctor to purchase a house; and the board may not advance rent to an individual to induce him to vacate a house for the personal use of a physician, even though housing in the area is limited. Hospital funds derived from taxes, service charges, gifts, etc., are public funds and may not be expended for other than a public purpose. Cited herein: K.S.A. 1979 Supp. 19-1804.

\* \* \*

Dear Mr. Worcester:

Your recent letter requests the opinion of the office concerning the authority of the Board of Trustees for Graham County Hospital to expend funds, received from public and/or private sources, to assist a doctor in establishing a home in the community.

Specifically, you inquire whether a Hospital Board may:

"(1) . . . buy a house to be used to provide the doctor or any other hospital employee with a house?"



Subject C FILED  
Sheridan  
 Copy to Hospitals

OR 481  
 1/6/81  
 SMOOT

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
 ATTORNEY GENERAL

January 27, 1981

MAIN PHONE: (913) 296-2215  
 CONSUMER PROTECTION: 296-3751  
 ANTITRUST: 296-3299

ATTORNEY GENERAL OPINION NO. 81- 24

Mr. Michael H. Haas  
 Sheridan County Attorney  
 Hoxie, Kansas 67740

Re: Counties and County Officers--Hospitals--Bond Limitations

Synopsis: The restriction on bond issues imposed by K.S.A. 1980 Supp. 19-1815e does not apply to city bonds issued under the provisions of K.S.A. 1980 Supp. 12-1774 and retired in part by a tax levy authorized by K.S.A. 1980 Supp. 19-1809. Bonds issued by the county for a long term care facility pursuant to K.S.A. 1980 Supp. 19-1815e are subject to the \$750,000 bonded debt limitations contained therein. Cited herein: K.S.A. 1980 Supp. 12-1774, 19-1809 and 19-1815e.

\* \* \*

Dear Mr. Haas:

As Sheridan County Attorney, you inquire whether bonds issued under K.S.A. 1980 Supp. 19-1809 are limited by the provisions of K.S.A. 1980 Supp. 19-1815e. You state that the Sheridan County Hospital Board is contemplating adding an addition to the long term care facility of the county hospital.

Generally speaking, K.S.A. 1980 Supp. 19-1815e is a statute which enables certain counties to issue bonds for constructing additions or enlargements to hospitals or long term care facilities. The statute places a limit of \$750,000 on bonds issued under its authority. K.S.A. 1980 Supp. 19-1809, on the other hand, enables counties to levy a tax to pay for a portion of bonds issued by cities within the county under the authority of K.S.A. 1980 Supp. 12-1774, and to pay for a portion of certain other public hospital functions. Notably,

OR 37480  
11/12/80  
Smoot



Subject Counties  
Buildings  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

February 9, 1981

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3731  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 81- 37

Mr. J. Ronald Vignery  
Hospital Board Attorney  
Northwest Kansas Medical Center  
P.O. Box 629  
Goodland, Kansas 67735

Re: Counties and County Officers--Hospitals--Medical Clinics

Synopsis: (1) County hospital boards do not have power to purchase medical clinics.

(2) Assuming the use of statutorily authorized funding hospital boards do have the power to add to existing medical clinics once they have been lawfully acquired.

(3) The hospital board does not have the power to use private financing to acquire a medical clinic.

(4) That the method of purchase to be used in acquiring a medical clinic is purchase of the corporation holding the building does not by itself make such purchase unlawful.

(5) The hospital board may lease a facility to be used as a medical clinic to medical doctors, dentists, optometrists and pharmacists.

(6) The hospital board may not use a lease-purchase agreement to acquire that which it could not acquire by normal purchase.

(7) The county commission may purchase a medical clinic for the hospital board using methods provided in K.S.A. 19-1801 et seq. or through use of county home rule power, but private financing may not be used.

OP 305  
7/20/81  
Sweet



FILE  
Subject Counties  
Buildings  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

July 28, 1981

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 81-175

Michael H. Haas  
Sheridan County Attorney  
Sheridan County Courthouse  
Hoxie, Kansas 67740

Re: Counties and County Officers -- Hospitals -- Long-Term Care Facilities; Bonded Debt Limits

Synopsis: Bonds issued for the purpose of paying the costs of constructing a long-term care facility pursuant to K.S.A. 1980 Supp. 19-1815e, as amended by section 1 of 1981 Senate Bill No. 213, are not subject to the bonded debt limits contained in K.S.A. 1980 Supp. 19-1869. Cited herein: K.S.A. 1980 Supp. 19-1801, K.S.A. 19-1815, K.S.A. 1980 Supp. 19-1815e (as amended by L. 1981, ch. 118, §1), 19-1869.

\* \* \*

Dear Mr. Haas:

You request the opinion of this office regarding K.S.A. 1980 Supp. 19-1815e, as amended by section 1 of 1981 Senate Bill No. 213 (L. 1981, ch. 118). The 1981 amendments to this section eliminated the bonded debt limitation of \$750,000 for general obligation bonds issued for the construction of additions and enlargements to county hospitals, and the construction of long term care facilities and medical clinics operated pursuant to K.S.A. 1980 Supp. 19-1801 through 19-1815. Prior to the amendment of 19-1815e, this section concerned only counties having a population under five thousand. As amended by Senate Bill No. 213, 19-1815e may apply to any county operating a hospital under K.S.A. 1980 Supp. 19-1801 through 19-1805.

Specifically, you desire to know if the county is now free of any bonded debt limitations when constructing a long-term care facility as authorized by this section or whether the county

OR 38381  
9/24/81  
Smoot



FILE  
Subject Counties --  
Buildings --  
Copy to Hospitals

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

October 14, 1981

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 81-243

William F. Stahl  
Attorney at Law  
815 West Sixth Street  
P. O. Box 94  
Junction City, Kansas 66441

Re: Counties and County Officers -- Hospitals -- Additions to Medical Clinics

Synopsis: Neither K.S.A. 1980 Supp. 19-1815e, as amended by L. 1981, ch. 118, §1, nor K.S.A. 1980 Supp. 19-1878 authorizes the issuance of bonds for the purpose of making additions or enlargements to an existing medical clinic operated in connection with a county hospital. However, pursuant to K.S.A. 19-15,114, a board of county commissioners may issue bonds for the making of an addition or enlargement to an existing medical clinic. Cited herein: K.S.A. 1980 Supp. 10-306, 10-307, 19-101a, K.S.A. 19-101b, K.S.A. 19-15,114, K.S.A. 1980 Supp. 19-15,116, 19-1801, 19-1815e (as amended by L. 1981, ch. 118, §1), 19-1878, K.S.A. 19-18,117.

\* \* \*

Dear Mr. Stahl:

On behalf of the Geary County Board of County Commissioners, you inquire regarding the proposed construction of an addition to a medical clinic erected and operating in connection with the county hospital. The hospital is organized pursuant to K.S.A. 1980 Supp. 19-1801 et seq. The Geary county hospital was constructed in 1966 and the medical clinic was built on the hospital grounds in 1975.

Specifically, you ask whether either K.S.A. 1980 Supp. 19-1815e or K.S.A. 1980 Supp. 19-1878 authorizes the issuance of bonds for the construction of an addition to the medical clinic.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

November 15, 1982

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 82- 246

David Belling  
Miami County Attorney  
P. O. Box 245  
Paola, Kansas 66071

Re: Laws, Journals and Public Information -- Kansas  
Public Records Law -- Public Access to Salary of  
County Hospital Administrator

Synopsis: Amounts paid as salary to an administrator of a  
county hospital operating pursuant to K.S.A. 19-1801  
et seq., are subject to public access pursuant to  
K.S.A. 45-201 et seq. Cited herein: K.S.A. 10-801,  
10-804, 10-805, 10-806, K.S.A. 1981 Supp. 12-105a,  
12-105b, K.S.A. 19-1801, 19-1804, 45-201.

\* \* \*

Dear Mr. Belling:

You request the opinion of this office regarding whether the Hospital Board of Trustees of the Miami County Hospital is required to disclose the salary of the hospital administrator appointed pursuant to K.S.A. 19-1804. We have no hesitancy concluding that the salary of a hospital administrator of a county hospital operating pursuant to K.S.A. 19-1801 et seq., must be disclosed pursuant to the Kansas Public Records Act, K.S.A. 45-201 et seq.

In pertinent part, K.S.A. 45-201 provides:

"(a) All official public records of the state, counties, municipalities, townships, school districts, commissions, agencies and legislative bodies, which records by law are required to be kept and maintained, except those of the district court concerning proceedings pursuant to the juvenile code which shall be open





STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

November 29, 1982

MAIN PHONE 19131-296-2215  
CONSUMER PROTECTION 296-3751

ATTORNEY GENERAL OPINION NO. 82- 250

Granville M. Bush  
Attorney at Law  
111 East Avenue North  
Lyons, Kansas 67554

Re: Townships and Township Officers -- Hospitals --  
Signatures on Warrants

Synopsis: The administrator of a district hospital subject to the requirements of K.S.A. 80-2188 may not sign warrants or combination warrant checks. The signature of both the chairman and secretary of the board is required. Cited herein: K.S.A. 10-801, 10-803, 10-806, 80-2188.

\* \* \*

Dear Mr. Bush:

You request the opinion of this office whether a district hospital administrator may sign warrants. You advise that the district in question is subject to K.S.A. 80-2188 which provides in pertinent part:

"All expenditures made by said board of directors shall be paid by warrants drawn on the treasurer and signed by the chairman and secretary of the board: Provided, That the board of directors may use a combination warrant and check upon which both a warrant and check are included in the same instrument in like manner as provided by K.S.A. 10-801 with respect to cities and such combination warrant and check shall be subject to the applicable provisions of K.S.A. 10-806."

K.S.A. 10-801 authorizes the use of combination warrant checks and provides:



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

November 29, 1982

MAIN PHONE (913) 296-2215  
CONSUMER PROTECTION 296-3751

ATTORNEY GENERAL OPINION NO. 82- 251

John F. McClymont  
Attorney at Law  
120 South State Street  
Norton, Kansas 67654

Re: Counties and County Officers -- Hospitals -- Use  
of Donations to Finance Medical Education

Synopsis: A county hospital board of trustees may not use  
unrestricted gifts, bequests, devises or deeds  
for medical student loans or scholarships. How-  
ever, the board of county commissioners may ex-  
ercise its home rule powers to authorize the use  
of unrestricted donations to the hospital for  
the purpose of making medical student loans or  
scholarships. Cited herein: K.S.A. 19-101a,  
19-1801, 19-1812.

\*

\*

\*

Dear Mr. McClymont:

During the last legislative session you inquired of this  
office regarding the use of private donations to a county  
hospital for the purpose of financing medical education  
loans and scholarships. We delayed responding to your re-  
quest pending the passage of legislation designed to clarify  
the Kansas county hospital laws. That legislation, as well  
as proposed amendments to the city hospital laws, failed to  
get legislative approval. We further delayed our opinion  
after testifying before an interim legislative committee  
concerning your request. It appears that proposed legislation  
currently being considered by the committee will not address  
your question of the use of hospital funds for medical stu-  
dent loans and scholarships. Hence, the following represents  
our opinion of the existing law regarding this issue.

KANSAS HOSPITAL ASSOCIATION  
TESTIMONY ON COUNTY HOSPITAL LAWS

The Kansas Hospital Association appreciates the opportunity to express its concerns on a number of bills relating to public hospital laws. As you are aware, the Special Committee on Hospital Laws spent the summer reviewing laws relating to county, city, district and township hospitals. Our Association was in attendance at all those meetings and submitted comments on the various bill drafts that the Committee requested.

We want you to know that our members are extremely concerned about these bills. We had a number of administrators and trustees appear before the interim committee, but in the interest of time, we will not do that during the Session. The following is a summary of our members' concerns on the county bill.

COUNTY HOSPITALS

House Bill 2002

This bill relates to the establishment and operation of county hospitals. It repeals the present county hospital laws and establishes a uniform act for county hospitals. Our major concerns with this bill are as follows:

-- In Section 1(c), we have a very basic concern with the definition of "hospital." We believe that the definition incorporated in this bill is much too restrictive and does not allow public hospitals to function in the modern marketplace. We, therefore, suggest that the following broad definition be used:

"'Hospital' means a medical care facility, as defined in K.S.A. 65-425, and such additional health care functions, services and facilities authorized by the board, and required to meet the needs of the public served."

In the alternative, we could support the definition stating "hospital" means a medical care facility as defined in K.S.A. 65-425 and includes within its meaning, but is not limited to, any clinic, school of nursing..."

(Attachment  
No. 3.)

-- Section 5(a) is of major concern to county hospitals. That section presently states that "the commission may provide for the management and control of any existing county hospital, or any county hospital established under this Act by a board." Such language appears to give the county commission discretionary authority regarding the appointment of a hospital board. We believe that all county hospitals should be operated by a hospital board, unless there is a lease or management contract which would require otherwise.

The specialized knowledge required to operate a hospital in the present era of reimbursement problems and complex regulations requires special knowledge, which cannot be acquired in a short time. It often takes a number of years for a trustee to really learn the operations of a hospital and to become an effective board member. It is, therefore, important to ensure that there is a mechanism in the county hospital laws that require having a hospital board which can develop such specialized knowledge. A county commission involved in running libraries, building roads and bridges, dealing with flood control and highways could not be expected to have the specialized knowledge it would take to effectively run a county hospital. Therefore, a county hospital board should be mandatory. We believe Section 5(a) should read, "The commission shall provide for the management and control of any existing county hospital or any county hospital established under this Act by a board, or may contract for the management and control of any such hospital with any person, corporation, association or society upon such terms and conditions as the commission deems to be in the best interest of the county."

-- Also, the first sentence in Section 5(b) should read, "The commission, by resolution, shall provide for the establishment of a hospital board and shall provide either that the members be appointed by the commission or that the members be elected by the qualified electors of the county."

It appears that Sections 5(b) and (d) give the county commission the authority to change the structure of the hospital board (by changing the number or the method

of selection) whenever they please, by resolution.

For the sake of continuity on the board, and in order for the board not to become a political football, we believe a change in board structure should be subject to voter approval, such as in the city manager plan, K.S.A. 12-1005h, et. seq.

-- Section 6(b) relates to the issuance of general obligation bonds. We would raise the question of who has the authority to manage the moneys from the issuance of general obligation bonds for hospital purposes, the board or the county commission? There have been some conflicting Attorney General opinions on this in the past.

-- We object to the vote required in Section 6(c). Present law (see K.S.A. 19-1878) requires notice to be published and for bonds to issue, unless there is a protest petition. It would be costly and time-consuming for every hospital bond issue to be put to a vote. Therefore, current law should be retained.

-- Section 7(c). The county hospitals strongly object to the provisions in this section, which would allow the county commission to amend or modify the hospital budget. The board, not the county commission, is the entity familiar with the hospital's operations, and it should be the entity that makes any changes in the budget.

In K.S.A. 12-1220, a city, county or township is authorized to levy a tax for a city, county or township library "in such sum as the library board shall determine within the limitations fixed by law." The same principle should apply to a county hospital board. We believe that the language from the present law (K.S.A. 19-1804(c)) should be retained in this section:

"Prior to the fifteenth day of July of each year, the board of trustees shall adopt a budget and certify to the board of county commissioners the amount necessary to maintain and approve said hospital for the ensuing year."

We also note that the June 1 budget deadline would create a problem for some county hospitals, particularly those operating on a calendar year. Those hospitals have to project their income and expenditures for seven months in advance. This

problem could be taken care of by adopting the present law cited above.

County hospitals are greatly concerned about these changes relating to the budget. Unless this section is redrafted to bring it in line with present law, it could make it extremely difficult for county hospitals to provide the health services needed in their communities.

1-19-83



# Morton County Hospital

445 Hilltop • P.O. Box 937

Elkhart, Kansas 67950 Phone (316) 697-2141

OFFICE OF THE ADMINISTRATOR

January 21, 1983

Representative Marvin L. Littlejohn, Chairman  
Health and Welfare  
State House  
Topeka, Kansas 66612

Dear Representative Littlejohn:

As Chairman of the Board for Morton County Hospital, Elkhart, Kansas I must take this opportunity to express my concern over certain parts of House Bill #2002, relating to the laws governing the operations of county owned and operated hospitals.

I would like to commend the Committee on Hospital Laws for their many hours spent in reviewing the present legislation governing the operation of county owned and operated hospitals in the state of Kansas. A review of these laws has been needed for some time.

The sections that I am concerned with are Section 5 (A) (B) and Section 7 (C). Having been a member of this hospital Board for the past ten years I have become acutely aware that Governing Board Members must develop a great deal of knowledge as to the operation of medical facilities in order to be effective members of the Board. With the many functions in county government I cannot see how it would ever be possible for county commissioners to operate a hospital without an additional Board being appointed or elected. I would recommend that some of the wording in Section 5, paragraphs (A) (B) be changed to make it mandatory that county hospitals have the Board, Governing Board, or Board of Trustees appointed and charged with the responsibility of operation of that facility. Government regulations, both state and federal, and the complex nature of hospitals and long term care units require a great deal of time and supervision.


I am gravely concerned over Section 7, paragraph (C) which deals with the frequency of meetings and the fact that records of meetings will be available for inspection by the commission on request. I have no problem with that section. Nor do I have any problem with the following part of that paragraph dealing with the completion of an audit and the presentation of that audit and report of management of the hospital to the commission; however, I am very much concerned over that part of Section 7 (C) which gives the commission the power to ammend or modify the Budget for the hospital after it has been approved by the duly appointed or elected Board. It is appropriate for the commission to have the authority to change the mill levy since they have the mill levy power, but the commission should not be given the authority to make line items, vetoes or changes in the hospital budget as such. I would ask

*(Attachment  
no. 4.)*

that the Committee on Hospital Laws recommend to keep the language as stated in K.S.A. 19-1804 (C) in the County Hospital Laws. The line item of review that a Hospital Board makes of the Budget, combined with present rate reviews of the Hospital Budget, adequately controls the individual preparation of any hospital budget. I would ask that you consider the change to keep the language in K.S.A. 19-1804 (C).

As a member of the Governing Board here at Morton County Hospital during the past ten years, I have had the opportunity to participate in guiding a remodeling program for this institution of over 2.9 million dollars. We have also achieved success in recruiting six doctors for this area which has resulted in Morton County Hospital becoming a referral center for this extreme area of southwest Kansas. We, at the present time, support population out of Oklahoma, Colorado, and New Mexico with the services here at Morton County Hospital. I am sorry that circumstances beyond my control prohibit my attending the hearing on this law, but, I would hope you would entertain this letter as a sincere expression of my concern for the areas mentioned above. Thank you very much for your time and concern.

Sincerely,

  
William E. Tucker, Chairman  
Governing Board

WET:mg