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HOSPITAL, COUNTY—MONEYS RECEIVED FOR OPERATION OF HOSPITAL—PUBLIC MONEYS WITHIN MEANING OF UNIFORM DEPOSITORY ACT—BOARD OF TRUSTEES OF COUNTY HOSPITAL SHALL RECEIVE AS SECURITY FOR DEPOSITS FROM DESIGNATED DEPOSITORY, BOND IN AMOUNT EQUAL TO FUNDS SO DEPOSITED—SECTIONS 135.01, ET SEQ., 339.06 RC, 2296-1 ET SEQ., GC—AM. HB 355, 100 GA, EFFECTIVE OCTOBER 13, 1953.

SYLLABUS:

Under the provisions of the Amended House Bill No. 355, 100th General Assembly, effective October 13, 1953, appearing as section 339.06, Revised Code, moneys received for the operation of a county hospital created and organized under the provisions of sections 339.01, et seq., Revised Code, are public moneys within the meaning of the Uniform Depository Act, section 135.01, et seq., Revised Code, section 2296-1, et seq., General Code, and must be deposited as provided in the Uniform Depository Act; provided, however, that the board of trustees of the county hospital shall receive as security for such deposits from the designated depository, a bond in an amount equal to the funds so deposited, as provided in Section 339.06, Revised Code.

Columbus, Ohio, October 22, 1953

Hon. Harry Friberg, Prosecuting Attorney
Lucas County, Toledo, Ohio

Dear Sir :

I have before me your request for my opinion which pertains to the manner in which funds of a county hospital are to be deposited in banks and trust companies under the provisions of Amended House Bill No. 355, enacted June 29, 1953, and effective October 13, 1953. This act appears as Section 339.06, Revised Code, and amends former Section 3137 of the General Code. The act places all control of the hospital property and moneys received for use in the operation and maintenance of the hospital in the Board of Trustees of such hospital. Specifically, the question presented is whether by the operation of this act, the Board of Trustees of a County Hospital must now follow the provisions of the Uniform Depository Act in making deposits of the moneys under their control for the operation and maintenance of the county hospital.

Prior to the amendment, Section 3137, General Code, now appearing as Section 339.06, Revised Code, provided that moneys for the operation of a county hospital were deposited with the county treasurer to the credit of the hospital operating fund and the money was paid out only for the maintenance and operation of such hospital on the warrant of the county auditor issued pursuant to the order of the board of trustees of the county hospital. The amendment to this method of holding moneys of the hospital was accomplished by Amended House Bill No. 355, supra, and Section 339.06, Revised Code, now reads in pertinent part:

“* * * The board of county hospital trustees has control of the property of the hospital, * * * and all funds used in its operation. The board of county hospital trustees shall deposit all moneys received from the operation of the hospital or appropriated for its operation by the board of county commissioners, or resulting from special levies submitted by the board of county commissioners as provided for in section 5705.22 of the Revised Code, to its credit in banks or trust companies designated by it, which fund shall be known as the hospital operating fund. Such banks or trust companies shall give the board of county hospital trustees a bond in an amount equal to the funds so deposited. The board of trustees shall not expend such funds until its budget for that calendar year is submitted to and approved by the

board of county commissioners. Thereafter such funds may be disbursed by the board of county hospital trustees for the uses and purposes of such hospital, on a voucher signed by the administrator, provided for in this section, regularly approved by the board of county hospital trustees and signed by two members of the board of county hospital trustees. All moneys appropriated by the board of county commissioners or from special levies by the board of county commissioners for the operation of the hospital, when collected shall be paid to the board of county hospital trustees on a warrant of the county auditor and approved by the board of county commissioners."

The purpose of this amendment is to take the control of the funds of the hospital from the county treasurer and place it with the board of trustees of the county hospital.

In giving the Board control of the moneys received for the operation of the hospital, amended section 339.06, Revised Code, supra, requires that such moneys be deposited in banks and trust companies designated by it. The question is then clearly presented as to the manner in which such deposits are to be made.

The general procedure by which public moneys are to be deposited is set out in section 135.01, et seq., Revised Code, Section 2296-1, et seq., General Code, commonly known as the Uniform Depository Act. To determine the scope and effect of this act, reference must be made to the definitive section, section 135.01, Revised Code, which reads in part:

"(A) 'Public moneys' means all moneys in the treasury of the state or *any subdivision of the state*, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. * * *

"(B) '*Subdivision*' means any county, school district, municipal corporation, except a municipal corporation or a county which has adopted a charter under Article XVIII or Article X, Ohio Constitution, having special provisions respecting the deposit of the public moneys of such municipal corporation or county, township, municipal or school district sinking fund, special taxing or assessment district, or other district or *local authority electing or appointing a treasurer*.

"* * * (G) 'Treasurer' includes the treasurer of state and the treasurer, or officer exercising the functions of a treasurer of any subdivision.

"* * * (I) 'Governing Board' means, in the case of the state, the state board of deposit, in case of the county, the board of

county commissioners; * * * and in the case of any other subdivision electing or appointing a treasurer, the directors, trustees, or other similar officers of such subdivision. * * *

In providing for a uniform system by which public moneys are to be deposited, it appears clear that the legislature used very broad and inclusive language. The usual meaning of the term "subdivision" was broadened to include not only the usual political or taxing subdivisions, but in addition every "local authority electing or appointing a treasurer." Beyond this, the term "public moneys" was made to include all moneys which come into the hands of a treasurer of such a "subdivision." The issue then becomes whether a county hospital is a local authority as used in the Uniform Depository Act. Considering the authority vested in the board of trustees of the hospital, to control both property and funds of the institution, it would seem that it is the "local authority" for the purpose of operating a portion of county government, i. e., in the operation of a county hospital.

I must conclude from these inclusive definitions that a county hospital is a "subdivision" within the meaning of the act and that such funds as come within the control of the administrator as "treasurer" are "public moneys." The designation then of a proper depository is within the power of the board of trustees of the county hospital as the "governing board" and must be governed by the provisions of section 135.01, et seq., Revised Code. In this regard, reference should also be made to a recent opinion, Opinions of the Attorney General for 1953, No. 3052, rendered September 18, 1953, in which I held that the funds of a municipal library district are "public moneys" and such district a "local authority" within the meaning of the Uniform Depository Act.

Having found as I do that the deposit of funds of a county hospital is within the provisions of the Uniform Depository Act, consideration must now be given to any possible inconsistency or incompatibility between the provisions of the act, and section 339.06, Revised Code, as it pertains to the deposit of such funds. In construing together the provisions of a statute of general application, and a later special statute such as are present here, the rule is generally stated that the provisions of both statutes shall be applied except where there is an irreconcilable conflict between the two. In such a situation, the rule has been that the special statute shall prevail on the theory that being a later enactment, it must

be presumed that the legislature intended to work an exception to the general statute in this one particular. 37 Ohio Jurisprudence, 407.

Section 339.06, Revised Code, as amended, speaks generally in terms of a delegation of authority to the board of trustees to deposit such funds as are received by the county hospital. Failing to specify any specific procedure for such deposits gives rise to the inference that the provisions of the Uniform Depository Act were intended to apply as I have held, *supra*. However, in one particular, the legislature has specifically provided in this section as follows:

“Such banks or trust companies shall give the board of county hospital trustees a bond in an amount equal to the funds so deposited.”

This portion of section 339.06, Revised Code, imposes then, a more rigorous requirement in this regard than the comparable provision in section 135.16, Revised Code, Uniform Depository Act, which sets the requirement as to security for such deposits. There, security is required in the form of eligible securities or at the discretion of the treasurer the depository may furnish a surety bond, both of which are to be in the amount of the excess of the deposit over the amount insured by the federal government. There is then a conflict between the two provisions of law and in view of the rule stated above, I am of the opinion that the precise language of section 339.06, *supra*, as it pertains to security for the deposit, must be followed. It does not appear that this later special enactment may be reconciled with the similar provisions of the Uniform Act and I must, therefore, hold that the board of trustees of the county hospital must secure bond in the amount of the deposit from the depository as required by section 339.06.

For the reasons stated above, I am of the opinion and you are so advised, that:

Under the provisions of Amended House Bill No. 355, effective October 13, 1953, appearing as section 339.06, Revised Code, moneys received for the operation of a county hospital created and organized under the provisions of section 339.01, *et seq.*, Revised Code, are public moneys within the meaning of the Uniform Depository Act, section 135.01, *et seq.*, Revised Code, Section 2296-1, *et seq.*, General Code, and must be deposited as provided in the Uniform Depository Act; provided, how-

ever, that the board of trustees of the county hospital shall receive as security for such deposits from the designated depository, a bond in an amount equal to the funds so deposited, as provided in Section 339.06, Revised Code.

Respectfully,

C. WILLIAM O'NEILL
Attorney General