

3084

1. HOSPITAL, MUNICIPAL—WHERE COUNTY AND MUNICIPALITY AGREE TO ERECT OR OPERATE OR BOTH A MUNICIPAL HOSPITAL, SUCH AGREEMENT DOES NOT CONSTITUTE COUNTY AND MUNICIPALITY A HOSPITAL DISTRICT—SECTION 3414-1a G. C.
2. ELECTION—ISSUANCE OF BONDS—HOSPITAL EXPENSE—QUESTION MUST BE SUBMITTED TO VOTERS OF ENTIRE COUNTY—IF MUNICIPALITY SUBMITS TO ELECTORS PROPOSITION TO PAY ITS SHARE OF COST, ELECTORS OF MUNICIPALITY WOULD ALSO VOTE ON QUESTION.

SYLLABUS:

1. Where a county and a municipality located wholly within such county, have entered into an agreement for the erection or operation or both, of a municipal hospital pursuant to the provisions of Section 3414-1a, General Code, the making of such agreement does not constitute such county and municipality a hospital district.

2. In case the county, pursuant to such agreement submits to the electors the question of the issuance of bonds or the levy of taxes for the county's share of the cost of constructing or operating a municipal hospital, as provided in Section 3414-1a, General Code, such proposition must be submitted to the electors of the entire county, including those residing in such municipality; and in case the municipality submits to the electors a proposition relative to its share of the cost of carrying out such agreement, the electors of the municipality would vote also on such proposition.

Columbus, Ohio, April 23, 1948

Hon. James E. Reed, Prosecuting Attorney
Marion County, Marion, Ohio

Dear Sir:

I have before me your communication in which you request my opinion. Your request reads as follows:

“1. May a county and a municipality, located wholly within said county, which have entered into an agreement for the erection, maintenance and operation of a new hospital pursuant to Ohio General Code Section 3414-1a, submit the question of the issuance of bonds therefor to the entire county, including the municipality as a hospital district?”

"2. Must the county, including the municipality, vote on the question of the issuance of bonds to provide the amount agreed to be provided by the county, and the municipality vote independently on the question of the issuance of bonds to provide the amount the city agreed to provide?

"3. Can a county and a municipality, located wholly within said county, form a hospital district?"

The General Assembly in 1941, enacted a law authorizing the creation of joint township hospital districts. This act, found in 119 O. L., 354, enacted supplemental sections 3414-1 to 3414-8, inclusive, of the General Code, and amended Section 2293-1, General Code, relating to the issuance of bonds so as to include a joint township hospital district as a subdivision within the meaning of the Uniform Bond Act.

These new sections of the law in effect authorize the trustees of any two or more contiguous townships in any county to form themselves into a joint township district hospital board for the purpose of establishing and maintaining a joint township district general hospital.

The 97th General Assembly, by the passage of Senate Bill No. 273, enacted certain new sections, including Sections 3414-1a to 3414-14-1d, General Code. These new sections were designed to permit a joint township district hospital board, in lieu of establishing and maintaining a joint township hospital, to make a contract with a municipality which has established or proposes to establish a municipal hospital, for participation in the erection or maintenance or both, of such municipal hospital. In addition to making this provision there was also granted to any board of *county commissioners* the right, in lieu of establishing and maintaining a county hospital, to enter into a like agreement with a municipality.

As we are dealing only with the action of a county in making such agreement with a municipality, I am setting forth the provisions of Section 3414-1a, and, for the sake of clearness, eliminating all of the many references to joint township district hospital boards and joint township hospitals. With these eliminations, that section reads as follows:

"* * * the board of county commissioners of any county, may, in lieu of proceeding to establish, construct and maintain * * * a county hospital, enter into an agreement with a municipality which is proposing to establish, or has established, a municipal hospital for participation * * * by said county, in the erection or enlargement of such municipal hospital, or in its

maintenance and operation, or both. Such agreement may provide for the amounts to be contributed * * * by such county, for the construction or enlargement of such hospital and for its maintenance and operation, the rights and privileges to be enjoyed * * * by the county, and its inhabitants, by virtue of such contributions, and the rights of representation * * * by such county, upon the municipality's board of hospital commissioners or board of governors, or both.

"If under the terms of said agreement * * * such county, shall be obligated to contribute a sum or sums for the erection or enlargement of such municipal hospital, * * * the county shall submit to the electors of the county, the question of the issue of bonds * * * of said county, in the amount necessary to provide such sum or sums. The proceedings in the matter of such election and in the issuance and sale of said bonds, if authorized by the electors, shall conform in all respects to the provisions of the uniform bond act. The aggregate net indebtedness created or incurred * * * by a county, for the purposes of this section shall not exceed two per cent of the tax list of said * * * county."

Section 3414-1b, General Code, authorizes a county when such agreement has been made with a municipality, to appropriate unencumbered funds for the purpose of maintaining such hospital in accordance with the provisions of Sections 5625-29 to 5625-39, inclusive, of the General Code, and to submit the question of levying a tax for such purpose in accordance with Sections 5625-1 to 5625-18e, inclusive, of the General Code.

Section 3414-1c authorizes such county to appoint on the board of hospital commissioners or the board of governors of such municipal hospital, such representatives as may have been agreed upon.

In this last mentioned act there were also included certain new sections relative to the organization and conduct of municipal hospitals, to wit, Sections 4034-1 to 4034-4, inclusive, (changed by the codifying commission to Sections 4035-1 to 4035-4) of the General Code. These sections in effect authorize a municipality by agreement with a joint township hospital district board or with the county commissioners of the county to accept participation by them in the erection or maintenance or both of a municipal hospital, and to admit to membership on its board of hospital commissioners or board of governors, representatives of the joint township board or of the county as the case may be.

It will be observed that these supplementary statutes authorizing such

agreement with the municipal authorities do not in any way contemplate a "joint hospital district" composed of a municipality and the county in which it is located. They provide for nothing except participation by the county or the joint township board in the construction and maintenance of a municipal hospital and participation in the government of such hospital. The hospital remains a municipal hospital and the agreement in question does not in any way contemplate the organization of a district.

It will be observed that where the county proposes to issue bonds by a vote of the electors, the question of issuing such bonds is to be submitted to the "electors of the county". This, of necessity, must include the electors of the city which is located within and is a part of the county. If the municipality decides to issue bonds for the erection of such hospital and to submit the question of such issue to a vote of the electors, it must of course proceed under the uniform bond law and submit that proposition to the electors of the municipality. Manifestly, this would result in the electors of a municipality having a right to vote on each of these propositions and would carry with it the correlative obligation of the taxpayers of the municipality to contribute to the payment of both issues of bonds.

The same conclusion will apply to any levy of taxes and appropriations of municipal and county funds, whether or not submitted to the vote of the electors. There is no provision as to either of these propositions, for submission only to the electors residing outside of the municipality.

Accordingly, in specific answer to your questions it is my opinion :

1. Where a county and a municipality located wholly within such county, have entered into an agreement for the erection or operation or both, of a municipal hospital pursuant to the provisions of Section 3414-1a, General Code, the making of such agreement does not constitute such county and municipality a hospital district.

2. In case the county, pursuant to such agreement submits to the electors the question of the issuance of bonds or the levy of taxes for the county's share of the cost of constructing or operating a municipal hospital, as provided in Section 3414-1a, General Code, such proposition must be submitted to the electors of the entire county, including those residing

in such municipality; and in case the municipality submits to the electors a proposition relative to its share of the cost of carrying out such agreement, the electors of the municipality would vote also on such proposition.

Respectfully,

HUGH S. JENKINS,
Attorney General.