

OPINION NO. 66-067**Syllabus:**

A joint township district hospital board may, pursuant to Section 513.15, Revised Code, accept and hold a gift or bequest of stocks or bonds, but in the absence of a power specifically granted in the terms of the gift or bequest, funds derived from the sale of such stocks or bonds may be invested by the said board only as authorized by Chapter 135, Revised Code.

To: John O. Crouse, Highland County Pros. Atty., Hillsboro, Ohio
By: William B. Saxbe, Attorney General, March 29, 1966

Your request for my opinion reads:

"The Board of Governors of a Joint Township District General Hospital in Highland County, Ohio is faced with a problem of reinvesting funds derived from a proposed sale of common stock left to the hospital under the provisions of a will which contain no prohibitions concerning sale and reinvestment.

"I respectfully request your opinion therefor on the following questions:

"Can the Board of Governors of a Joint Township District General Hospital, under the laws of Ohio, invest available money in common stock or reinvest funds derived from the sale of common stock which was originally left to the hospital by will, which will contained no prohibitions concerning the sale or reinvestment of said stock?"

The creation and operation of joint township district hospitals are authorized by Section 513.07, et seq., Revised Code. Townships and certain municipalities may join together to form a joint township hospital district; boards of such districts are empowered, with the approval of the electorate of the district, to issue bonds and levy a tax for hospital purposes.

Section 513.15, Revised Code, reads:

"The ownership of a joint township district hospital, including all right, title, and interest in and to all property, both real and personal, pertaining thereto, shall vest in the joint township district hospital board. In the selection and acquisition of a site for such hospital, the board shall have the same powers for the appropriation of lands as are conferred upon state departments, institutions, boards, or commissions. Such board may receive

and hold in trust for the benefit of the hospital, any grant or devise of land, and any donation or bequest of money or other personal property that is made for the establishment or support thereof."

At this point, your attention is invited to the fact that it is the joint township district hospital board, not the board of hospital governors appointed pursuant to Section 513.16, Revised Code, which may accept and hold donations or bequests.

There is nothing in Section 513.07, et seq., Revised Code, which directs a joint township district hospital board as to investments which may be made of funds donated or bequeathed to the board for hospital purposes. You have indicated that no investment powers were granted to the board in question at the time ownership of this stock was vested in the board.

The General Assembly has, however, directed public agencies as to their investment powers. Section 135.01, Revised Code, reads in part:

"As used in sections 135.01 to 135.23, inclusive, of the Revised Code:

"(A) 'Public moneys' means all moneys in the treasury of the state or any subdivisions of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. 'Public moneys of the state' includes all such moneys coming lawfully into the possession of the treasurer of state; and 'public moneys of a subdivision' includes all such moneys coming lawfully into the possession of the treasurer of the 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. In the case of a school district, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the 'subdivision.' Said term also includes a union or joint institution or enterprise of two or more subdivisions, which is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law."

A joint township hospital district is a subdivision within the meaning of Chapter 135, Revised Code; In Opinion No. 1439, Opinions of the Attorney General for 1957, page 758, I said this, at page 764:

"It is my conclusion that, pursuant to Chapter 135., Revised Code, a joint township hospital district is a subdivision and the funds derived from a special operating levy and which are held by the joint township district hospital board are public moneys to be deposited or invested in compliance with the provisions of that chapter. Any governmental obligations in which public moneys may be invested can only be those authorized by Section 135.12, Revised Code, and such investments must be made in the manner prescribed by that section."

I find nothing in either Section 513.07, et seq., or Chapter 135, Revised Code, which would authorize a joint township district hospital board to make investments other than as directed by law. In Opinion No. 3052, Opinions of the Attorney General for 1953, page 439, it was said that the trustees of a municipal library district were empowered to exercise their sound discretion as to the securities in which they invested certain endowment funds. Not only was the law which was then interpreted different from that now under consideration, but Opinion No. 3052, supra, has in fact been overruled. The syllabus of Opinion No. 1537, Opinions of the Attorney General for 1960, page 489, reads in part:

"3. Moneys coming into the hands of the clerk of a board of library trustees derived from the sale of gifts or bequests of stocks or bonds may not, unless permitted by the terms of the gift or bequest, be invested in securities other than as provided for in Section 135.01, et seq., Revised Code. (Paragraph two of the syllabus in Opinion No. 3052, Opinions of the Attorney General for 1953, page 439, overruled.)"

Your attention is also invited to my Informal Opinion No. 183, Informal Opinions of the Attorney General for 1964, issued April 17, 1964. The gift in that instance was to a municipal library. I expressed approval of Opinion No. 1537, supra, and concluded with this language:

"Therefore, it is my opinion and you are hereby advised that Opinion No. 1537, supra, is fully dispositive of your request; the cash portion of the bequest must be placed in a depository and the stocks may be retained, but if the stocks are sold, the proceeds of the sale of the stocks must be deposited pursuant to Sections 3375.36 and 135.01, et seq., Revised Code."

It is, therefore, my opinion and you are advised that a joint township district hospital board may, pursuant to Section 513.15,

Revised Code, accept and hold a gift or bequest of stocks or bonds, but in the absence of a power specifically granted in the terms of the gift or bequest, funds derived from the sale of such stocks or bonds may be invested by the said board only as authorized by Chapter 135, Revised Code.