In conclusion, it is my opinion that home rule cities have the authority to make specific payments to their employees "on account of sickness."

FRANK J. KELLEY,
Attorney General.

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COUNTIES: Federal Revenue Sharing Funds.

COUNTIES: Credit of the State.

HOSPITALS: Financial assistance from counties.

Counties are constitutionally prohibited from making a grant to a private, nonprofit hospital.

Health care is a permissible expenditure of federal revenue sharing funds.

Opinion No. 4851 November 4, 1974.

Honorable Russell Hellman
House of Representatives
Lansing, Michigan

You have requested my opinion concerning the use of funds received by a county under the State and Local Fiscal Assistance Act, 86 Stat 919 (1972), 31 USC 1221 *et seq.*, the Federal Revenue Sharing Act. You relate that the Calumet Public Hospital, a private nonprofit corporation, is attempting to secure financial assistance to undertake expansion and remodeling programs. A question has arisen concerning the legality of the use of revenue sharing funds for this purpose. The hospital facility serves residents of the county. Thus, the question may be stated as follows:

> Does a county have the general power to allocate funds received under the State and Local Fiscal Assistance Act of 1972 to a private nonprofit hospital corporation serving the residents of the county?

Health care is a permissible expenditure under the Federal Treasury Department permanent guidelines applicable to entitlement funds for periods beginning January 1, 1973, Section 51.31 of the Treasury Regulation states:

> "(a) *In general.* Entitlement funds received by units of local government may be used only for priority expenditures. As used in this part, the term 'priority expenditures' means:
>
> (1) Ordinary and necessary maintenance and operating expenses for . . .
>
> (iv) Health. . . .
>
> (2) Ordinary and necessary capital expenditures authorized by law. No unit of local government may use entitlement funds for non-priority expenditures which are defined as any expenditures other than those included in paragraph (a)(1) and (2) of this section." 38 Fed Reg 9138 (1973).

Further, section 123(a)(4) of the Act provides that a unit of local government may disburse such funds in any manner in which it could legally disburse its own revenues. Thus, it must be determined whether the county could use its own funds for renovation and expansion of the Calumet Public Hospital.

Under prior Constitution, the following was provided:

> "Any county in this state, either separately or in conjunction with other counties, may appropriate money for the construction and maintenance or assistance of public and charitable hospitals, sanatoria or other institutions for the treatment of persons suffering from contagious or infectious diseases. . . ." Const 1908, art 8, § 11.

No comparable provision was included in Constitution 1963. The applicable constitutional provision relating to the power of counties is Const 1963, art 7, § 8, which provides:

> "Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law."

A search of applicable statutory law fails to disclose authority for the county to use its fund in support of a private entity. However, *Oakland County Drain Commissioner* v *City of Royal Oak*, 306 Mich 124; 10 NW2d 435 (1943), holds that counties are subject to the constitutional prohibition against grant of the credit of the state to any person, association or corporation, public or private, as set forth in Const 1908, art 10, § 12. Similarly, in 1 OAG 1957-1958, No 3,066, p 476 (October 9, 1957), the opinion concludes that constitutional provision[1] prohibits a city from contributing its funds to a private group to operate recreational facilities for children. In substance, Const 1963, art 9, § 18 is the same and provides in part:

> "The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution."

Based upon federal regulation and the powers of counties to expend funds, I am constrained to conclude that a county does not have the general power to allocate funds received under the State and Local Fiscal Assistance Act of 1972 to a private, non-profit hospital facility serving residents in the county.

The county may wish to consider obtaining social services and medical service needs by contract since such services appear to be authorized by section 51.31 of the Federal Treasury Rules.

While your question relates to federal "revenue sharing" funds, I would invite your attention to the Hospital Finance Authority Act, being 1969 PA 38; MCLA 331.31 *et seq.;* MSA 14.1220(1) *et seq.*, the terms of which provide a possible method in which public financing may be made available to augment resources of a private nonprofit hospital. The use of this

[1] Const 1908, art 10, § 12.

resource, while not applicable to the situation posed by you, might be of assistance in the community dilemma.

FRANK J. KELLEY,
Attorney General.

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CONSTITUTIONAL LAW: Amendment of statutes.

STATUTES: Amendment.

An attempt by the legislature to amend an act by referring to it in a totally separate statute is violative of Const 1963, art 4, § 25.

Opinion No. 4828 November 20, 1974.

Mr. Allison Green
State Treasurer
Treasury Building
Lansing, Michigan 48922

In a recent letter to this office you requested advice concerning the effect of § 12 of 1972 PA 347, MCLA 282.112; MSA 13.1820(12), the Soil Erosion and Sedimentation Control Act, on the procedures prescribed by 1967 PA 228, MCLA 560.101 *et seq.;* MSA 26.430(101) *et seq.,* the Subdivision Control Act.

Section 12 of Act 347, *supra,* provides:

> "(1) After June 30, 1974, a person who makes and submits a preliminary plat pursuant to sections 111 to 118 of Act No. 288 of the Public Acts of 1967, as amended, being sections 560.111 to 560.118 of the Compiled Laws of 1948, shall attach a statement that he will comply with this act and the rules or an applicable local ordinance.
>
> "(2) After June 30, 1974, in addition to the statements in the proprietor's certificate on a final plat as required by section 144 of Act No. 288 of the Public Acts of 1967, as amended, being section 560.144 of the Compiled Laws of 1948, the proprietor's certificate shall include a certificate that he has obtained a permit from the appropriate county or local enforcing agency and will conform to the requirements of this act and the rules or an applicable local ordinance."

Your questions concerning § 12 of the Soil Erosion and Sedimentation Control Act are:

> "1. Does Sec. 12 of Act 347 legally amend Act 288, i.e. must the proprietor's certificate include a certificate that he has obtained a permit from the appropriate county or local enforcing agency and will conform to the requirements of this act and the rules or an applicable local ordinance?
>
> "2. Does your reply to question #1 also apply to other acts that may amend Act 288 by reference in the same or a similar manner?"