

ACCOUNTS, STATE BOARD OF: Counties and county hospitals—authority to acquire nurses' homes.

March 18, 1937.

Hon. William P. Cosgrove,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of March 17 submitting a contract about to be entered into by Walter R. Hutchinson and wife with the Board of Trustees of the Putnam County Hospital, for the construction of a nurses' home. You submit two questions with reference thereto as follows:

(1) May the board of trustees enter into any such contract?

(2) If the contract is legal and they enter into any such contract, will the county council be obligated to make the necessary appropriations for the maintenance and operation of the home?

I assume that the Putnam County Hospital was organized and is operating pursuant to chapter 144 of the Acts of 1917 and the Acts amendatory thereof. Such being true, section 12 of the Act, same being section 22-3231 Burns Indiana Statutes, 1933 Revision, provides:

“Donations authorized.—Any person or persons, firm, organization, corporation or society desiring to make donations of money, personal property or real estate for the benefit of such hospital, shall have the right to vest title of the money or real estate so donated in said county, to be controlled, when accepted, by the board of hospital trustees, according to the terms of the deed, gift, devise or bequest.”

Under the provisions of this section, I think it is clear that the Board of Trustees of such hospital have the right to enter into the contract contemplated. The provision requiring the trustees to pay the donors an annuity equal to 5 per cent of the capital investment for life might be authorized

also under section 22-3228, Burns Indiana Statutes, 1933 Revision, which provides as follows:

“Appropriation by county council.—In counties exercising the rights conferred by this Act, the county council may appropriate each year, in addition to the tax for hospital fund hereinbefore provided for, not exceeding ten (10) per cent of its general fund for the improvement and maintenance of any public hospital so established, and for the purchase or construction of a suitable home for nurses in connection therewith as provided in section 14 (Sec. 22-3233) of this Act.”

It is clear that this section contemplates an expenditure of public funds for the purchase or construction of a suitable nurses' home.

This same program is again authorized in section 22-3233 Burns Indiana Statutes, 1933 Revision, which provides that “such board of trustees may purchase, build or otherwise acquire a suitable home for the housing of the graduate and student nurses employed in said hospital.”

Therefore, from the provisions of the statutes, above quoted, the Board of Trustees is authorized to acquire the property described in the contract for the purposes of operating and maintaining a nurses' home.

As to whether or not the county council shall be obligated to make necessary appropriations for the maintenance and operation of said home, beg to say that in section 22-3228 Burns Indiana Statutes, 1933 Revision, above quoted, the county council is given authority to appropriate funds for the maintenance of a nurses' home and the language of the statute is that it may appropriate a sum not exceeding 10 per cent of the general fund for hospital maintenance to be used for the purchase of a nurses' home.

This is the only provision of the statute which would authorize the payment of this annuity from moneys raised by taxation and it will be noted that this provision is discretionary and not mandatory.

In answer to your second question, therefore, it is my opinion that there would be no mandatory duty on the county council to appropriate funds with which to pay the annuity to the donors or to pay the expenses for the operation of the home.