

"proprietary interest" in the beaches in question, it is without the authority to ban all swimming at or along those beaches.

Accordingly, your question is answered in the negative.

073-431—November 26, 1973

COUNTY HOSPITALS

OPERATION NOT TRANSFERABLE TO PUBLIC HEALTH TRUST

To: Eugene C. Mooney, Representative, 33rd District, Fern Park

Prepared by: Sharyn Smith, Assistant Attorney General

QUESTION:

May the operation of a county hospital operating under Ch. 155, F. S., be transferred to a public health trust, under Ch. 73-102, Laws of Florida?

SUMMARY:

A county hospital operating under Ch. 155, F. S., may not be transferred to a public health trust, pursuant to Ch. 73-102, Laws of Florida.

Chapter 73-102, Laws of Florida [§§154.07-154.12, F. S.], authorizes the governing body of each county to create a governmental unit known as a public health trust. Due to the fact that county governing bodies have been unable to devote undivided attention to the pressing needs of the operation and governance of public health-care facilities, the legislature, in the preamble to Ch. 73-102, has recognized the need for such a public health trust which will assume the ownership, operation, management, control, or governance, or all of the foregoing, of designated public health-care facilities within the counties, and, therefore, relieve the county governing body of the burden of operating, managing, or controlling designated health-care facilities.

A Ch. 155, F. S., hospital is owned by the county as a political subdivision, but it is *not* operated and governed or controlled by the governing body of the county. A board of trustees, appointed by the governor pursuant to §155.06, is responsible for the operation, maintenance, and governance of a Ch. 155 hospital.

An inspection of the preamble to Ch. 73-102, *supra*, forecloses the possibility that the legislature intended a Ch. 155 hospital to be included within §2(a), Ch. 73-102 [§154.08(1), F. S.], as a "designated facility." The preamble, which clearly states in the first sentence that "[w]hereas there are counties of this state which *through their governing bodies own, operate and govern* public health care facilities" (Emphasis supplied.), precludes the possibility of including a Ch. 155 hospital, which is not owned, operated, *and* governed by a board of county commissioners, within those designated health-care facilities which may be transferred to the public health trust. Thus, the only health-care facilities intended by the legislature to be designated facilities, and hence transferable, are those which are actually owned, *operated, and governed* by the board of county commissioners.