

County health units; HRS

Number: AGO 80-28

Date: January 15, 1998

Subject:
County health units; HRS

COUNTY PUBLIC HEALTH UNITS--AGENCIES OF COUNTY GOVERNMENT AND NOT OF DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

To: David H. Pingree, Secretary, Department of Health and Rehabilitative Services, Tallahassee

Prepared by: Craig B. Willis, Assistant Attorney General

QUESTION:

Are the county public health units established under the provisions of part I of Ch. 154, F. S., a part or a subdivision of the Department of Health and Rehabilitative Services?

SUMMARY:

County public health units established and maintained under the provisions of part I, Ch. 154, F. S., are agencies of county government performing county purposes and are not agencies of state government or a subdivision of the Department of Health and Rehabilitative Services, although the department cooperates with and exercises limited supervisory authority over such local health units.

It appears from your letter that the United States Department of Health, Education, and Welfare has expressed concern that the county health units, by whatever name denominated, might be legally considered to be a division of the Department of Health and Rehabilitative services and not eligible under federal regulations to secure federal funds for Medicaid prepaid health plans and, further, that the Department of Health, Education, and Welfare has requested that your department secure this office's opinion on this matter.

County public health units are authorized to be established in each county of the state by part I of Ch. 154, F. S. These county health units are established for the control and eradication of preventable diseases and the inculcation of modern, scientific methods in the control and prevention of communicable diseases. Section 154.01. In addition, the county health units shall provide "clinic-care and health care delivery programs where there is a demonstrated need for such services." *Id.* These programs constitute a cooperative dual state and county function for the purposes of and in the manner provided in part I of Ch. 154. The county public health units or, in the words of the statute, "full-time *local* health units in the counties," (Emphasis supplied.) are, however, agencies of county government rather than agencies of state government.

The counties, in order to carry out the purposes of Ch. 154, F. S., and to provide funds for the

operation of the county health units, are authorized to levy an annual ad valorem tax, not to exceed a certain prescribed millage, upon all taxable property within the county. Section 154.02, Section 1, Art. VII, State Const., forbids the levy of state ad valorem taxes upon real estate or tangible personal property, while s. 9(a) of Art. VII commands that counties be authorized by law to levy such taxes. See *also* s. 125.01(1)(r), F. S. The general rule of law is that county taxes must be expended for purposes of the county (see *Prescott v. Board of Public Instruction*, 32 So.2d 731 (Fla. 1947) or for a dual state and county purpose. See *e.g.*, *Okaloosa County Water and Sewer Dist. v. Hilburn*, 160 So.2d 43 (Fla. 1964), and *Town of Palm Beach v. City of West Palm Beach*, 55 So.2d 566 (Fla. 1951).

The proceeds of the tax when collected are to be paid to and held by the Department of Health and Rehabilitative Services in a full-time local health unit trust fund. Section 154.02, F. S. The department must expend the funds "solely for the purpose of carrying out the intent and object of [Ch. 154] in such county." *Id.* Thus, the department, when a "full-time local health unit" is established in a county and ad valorem taxes are collected therefore, becomes a trustee and disbursing agent of that county's health unit trust funds. Section 154.02 further provides that

"[t]he department shall render to the county commissioners of any such county providing such funds a semi-annual financial statement for the disbursement thereof, so long as said moneys shall continue to be disbursed by and under the direction of the department."

As to whether these full-time county health units are sub-divisions of the Department of Health and Rehabilitative Services, or an agency of state government, the structure, composition, and agencies comprising the executive branch of state government are established and prescribed by the Governmental Reorganization Act (Ch. 69-106, Laws of Florida), as amended, codified as Ch. 20, F. S. The Governmental Reorganization Act implements s. 6, Art. IV, State Const., which requires that "[a]ll functions of the executive branch of *state government* shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution." (Emphasis supplied.) The Constitution does not provide for or authorize the county public health units; such local health units are creatures of the Legislature. *Cf.* s. 1(a), (c), (f), and (g), Art. VIII, State Const., which provides for the constitutional structure and scheme of county government. Each county health unit may collect reasonable fees for services rendered, provided a schedule for such fees is established by the board of county commissioners and filed with the department. All such fees collected must be expended solely for the purpose of providing health services and facilities within the area served by the collecting county health unit. See s. 154.06, F. S. Section 20.03(11) defines "state agency" as the context requires to mean any "official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit or entity of [state] government." In delineating the structure of the executive branch of state government, s. 20.04, *inter alia*, provides that "[t]he department is the principal administrative unit of the executive branch" and, in subsection (4), that the Department of Health and Rehabilitative Services, and its internal structure, shall be organized into

". . . units called 'offices,' integral to the positions of deputy secretary, assistant secretary, and deputy assistant secretary, and organizational units called 'program offices,' which shall operate in a staff capacity to the assistant secretary for program planning and development."

Section 20.19 specifically establishes the organizational structure of the Department of Health

and Rehabilitative Services, and an examination of that section reveals that county public health units established and maintained under the provisions of part I, Ch. 154, F. S., are not a part or subdivision of the department as it is organized in its present form under the Governmental Reorganization Act of 1969, as amended, nor have any such health units been assigned or transferred to the department in the mode prescribed by s. 20.06.