



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

January 24, 1961

Honorable Henry Wade
District Attorney
Records Building
Dallas 2, Texas

Opinion No. WW-986

Re: Does the Board of Managers of the Dallas County Hospital District have legal authority, through an established employee retirement program, to enter into a contract with a mutual life insurance company to purchase life annuity insurance policies on employees who have attained retirement age and related question.

Dear Mr. Wade:

We have received your letter of December 21, 1960 enclosing your opinion, No. 60-19, in which the following questions are set forth:

- "1. Does the Board of Managers of the Dallas County Hospital District have legal authority, through an established employee retirement program, to enter into a contract with a mutual life insurance company to purchase life annuity insurance policies on employees who have attained retirement age."
- "2. If your answer to Question 1 is in the affirmative, and assuming that the Board has legal authority to purchase a group life insurance policy for its employees, your opinion is respectfully requested as to whether this Board has authority to purchase a group life insurance policy from a mutual life insurance company."

The answers to Questions 1 and 2 may be found in Attorney General's Opinion No. 0-924 wherein the following language is used:

"We, therefore, feel it incumbent upon us to overrule conference opinion No. 2880, inasmuch as the express language of our appellate courts in the cases quoted, written since the above numbered conference opinion, clearly

indicate the opinion of the learned judges to be that political subdivisions cannot legally purchase insurance from mutual companies because of Section 52 of Article III of our Constitution. We have been unable to perceive any possible distinction in law between mutual fire insurance and mutual employers liability or Workmen's Compensation Insurance insofar as the Constitutional provisions are applicable."

and, further:

"After careful and exhaustive investigation of all available authorities, we are of opinion and you are respectfully advised that Dallas County cannot legally purchase insurance in mutual fire or casualty companies; that such purchase would involve taking membership in or becoming a stockholder in such corporation, association or company in direct violation of the provisions of the Texas Constitution."

The above quoted language and the result of this opinion was sustained in 1942 by the Supreme Court of Texas, which held that the Austin Independent School District could not purchase a policy from a mutual insurance corporation and the Court declared that the part of Article 4860a-8, Vernon's Civil Statutes, providing for purchase of mutual insurance by a political subdivision was unconstitutional in violation of Section 52 of Article III of the Texas Constitution. Lewis v. Independent School District of the City of Austin, et al, 139 Tex. 83, 161 S.W. 2d 450 (1942).

In view of the foregoing, we agree with your able opinion, and hold that both Questions 1 and 2 should be answered in the negative.

SUMMARY

The Board of Managers of the Dallas County Hospital District, a political subdivision of the State of Texas, may not enter into a contract to purchase life or retirement

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insurance from a mutual insurance company.
Section 52, Article III, Texas Constitution.

Yours very truly,

WILL WILSON
Attorney General of Texas

By 
Robert L. Armstrong
Assistant

RLA:hmc

APPROVED:

OPINION COMMITTEE
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REVIEWED FOR THE ATTORNEY GENERAL
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