

**Opinion No. 116****Soil Conservation Districts—Donation,  
Soil Conservation Districts  
—Hospitals**

**Held:** A soil conservation district, being a government subdivision of the State, has no power or authority under the law to donate its funds for the purpose of assisting in the construction of a hospital, and such a donation would be illegal.

Mr. Fay Crusch, Chairman  
Board of Supervisors  
Froid and Culbertson-Bainville  
Soil Conservation Districts  
Bainville, Montana

Dear Mr. Crusch:

You have asked me about the legality of a proposed donation by a soil conservation district to aid in the construction of a hospital.

Section 3 of Chapter 72, Laws of 1939, contains the following definition:

“‘District’ or ‘soil conservation district’ means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.”

Section 8 of Chapter 72, Laws of 1939, enumerating the powers of districts and supervisors, provides, in part:

“A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers. . . .”

Section 1 of Article XIII of the Montana Constitution provides:

“Neither the state, nor any county, city, town, municipality, nor other subdivisions of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association or corporation, or become a subscriber to, or a share-

holder in, any company or corporation, or a joint owner with any person, company or corporation except as to such ownership as may accrue to the state by operation or provision of law.” (Emphasis supplied).

By the terms of the Soil Conservation Act, a soil conservation district is a public corporation, and further, it is a governmental subdivision of the State, created by statute. A public corporation in this state has no power to act unless its authority to do so is conferred by a statute or necessarily implied therefrom. (State ex rel. Haley v. Dilworth, 80 Mont. 102, 258 Pac. 246.) Section 8 of the Soil Conservation Act lists the powers of districts and supervisors. Nowhere in the law, as given to us by the legislature, is there any authority for making donations to any hospital. The only mention of the disposition of property or money is “in furtherance of the purposes and provisions of this act” or “in carrying on its operation.” A donation to a hospital would not fall in this classification.

The cause for which the donation is requested is a very worthy one; however, your joint board of supervisors occupy a position of trust and are the representatives of a governmental subdivision of the State of Montana. The funds which you control may be used only as the Constitution may provide and as directed by the legislature.

Therefore, it is my opinion a soil conservation district, being a governmental subdivision of the State, has no power or authority under the law to donate its funds for the purpose of assisting in the construction of a hospital, and such a donation would be illegal.

Sincerely yours,  
R. V. BOTTMLEY,  
Attorney General