

**U.S. Department of Labor**

Office of Pension and Welfare Benefit Programs  
Washington, D.C. 20210



Opinion 84-38A

OCT 25 1984

Mr. Richard Y. Stevens  
Assistant County Manager  
County of Wake  
P.O. Box 550  
Raleigh, North Carolina 27602

Dear Mr. Stevens:

This is in reply to your request for an advisory opinion regarding the applicability of title I of the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the County of Wake, North Carolina Medical Benefits Trust (the Trust) is a governmental plan within the meaning of section 3(32) of title I of ERISA and therefore is excluded from coverage under that title by section 4(b)(1) of ERISA.

You advise that the County of Wake (the County) is a subdivision of the State of North Carolina. You further advise that the Trust was established on August 26, 1982, by the County to serve as a funding medium for the payment of medical care benefits to employees and retirees of the County and their dependents. Benefits are paid by Blue Cross and Blue Shield of North Carolina as agent for the Trust. Employees and retirees who elect dependent coverage contribute the difference between single coverage and dependent coverage to the Trust. The Trust is otherwise funded by the County. The County appoints the trustees for the Trust and may replace trustees. The Trust may be amended or terminated by the County. You also advise that the Trust has been determined by the Internal Revenue Service to be a voluntary employee beneficiary association within the meaning of section 501(c)(9) of the Internal Revenue Code.

Section 4(b)(1) of title I of ERISA excludes from coverage under that title any governmental plan described in section 3(32) of ERISA. Section 3(32) of ERISA defines the term "governmental plan" to include, in pertinent part, "... a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing ...."

Based on the information you submitted, it is the position of the Department of Labor that the County of Wake, North Carolina Medical Benefits Trust is a governmental plan within the meaning of section 3(32) of ERISA. As such it is established and maintained by the County of Wake and not covered by title I of ERISA.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Elliot I. Daniel  
Acting Assistant Administrator for Regulations and Interpretations