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OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

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Ms. Barbara Partain
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Municipalities -- Industrial
Development -- Bonds

Under Constitutional
Amendment No. 84, City of
Hamilton may legally use a
portion of bond proceeds to
pay off an existing loan on
a manufacturing facility so
that the present owner can
acquire title.

Dear Mrs. Partain:

The opinion request of the City of Hamilton has
been received in the Office of the Attorney General.
Your request reads as follows:

BE IT RESOLVED that the City
Council of Hamilton, Alabama,
hereby requests the Attorney
General to issue an opinion in the
matter of a pending bond issue. In
this matter, the party requesting
the bond desires a bond issue in an
amount to double the size of this
manufacturing facility. Part of
this money will be used to pay off
an existing Small Business

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Administration loan. We request the Attorney General to rule whether it is legal to use the bond money to pay off the existing note and acquire title to the existing facility. In researching this question, please take note of the special bond issuance powers given municipalities in Marion County under Amendment 84 to the state Constitution.

Constitution of Alabama 1901, Amendment No. 84, reads, in pertinent part, as follows:

Any provision of the Constitution or laws of the state of Alabama to the contrary notwithstanding, any municipality in Marion county, or any one or more of them, shall have full and continuing power and authority, without any election or approval other than the approval of its governing body, to do any one or more of the following:....

3. To promote local industrial, commercial or agricultural development and the location of new industries, or businesses therein.....

5. To lend its credit or to grant public moneys and things of value in aid of, or to, any individual, firm, association, or corporation whatsoever.

6. To become indebted and to issue and sell interest-bearing bonds, warrants (which may be payable from funds to be realized in future years), notes or other obligations or evidences of indebtedness, to a principal amount not

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exceeding fifty percent of the the assessed value of taxable property therein as determined for state taxation, in order to secure funds for the purchase, construction, lease or acquisition of any of the property described in subdivision 8 above or to be used in furtherance of any of the other powers or authorities granted in this amendment. Such obligations or evidences of indebtedness may (in addition to any pledge or pledges authorized by subdivision 8 of this amendment) be issued upon the full faith and credit of the municipality or may be limited as to the source of their payment....

The specific question asked is whether it is legal to use bond issue proceeds to pay off an existing loan so that the present owner of the facility can acquire title. Other bond monies will be used to double the size of this manufacturing facility.

Under Section 6 of Amendment No. 84, the governing body of the City of Hamilton has the authority to issue and sell interest-bearing bonds "to be used in furtherance of any of the the other powers or authorities granted in this amendment". Among those powers are those enumerated in Sections 3 and 5 which include the promotion of local industrial development and the promotion of such development by lending its credit or granting public monies to an individual or corporation. Given the broad language of Amendment 84, it is the opinion of this office that the City of Hamilton may legally use a portion of bond proceeds to pay off an existing loan on a manufacturing facility so that the present owner can acquire title.

The function of the Attorney General's Office is not to promulgate laws, but to interpret existing laws. In so doing this office notes that the powers granted to the municipalities of Marion County under Amendment

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No. 84 are much greater than those available to many other municipalities. In view of this fact, this office must urge the officials of the City of Hamilton to use extreme caution in the exercise of these broad powers as these powers are not limited by the constitutional safeguards which apply to the expenditure of funds by the vast majority of municipal governments in the State of Alabama.

I do hope that this response sufficiently answers your inquiry. If, however, we may be of further assistance, please do not hesitate to contact us.

Sincerely yours

CHARLES A. GRADDICK
Attorney General
By--



CAROL JEAN SMITH
Assistant Attorney General

CJS:es