

OFFICE OF THE ATTORNEY GENERAL



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Counties - Public Health - Funds

County may appropriate funds out of the four-mill Amendment 72 tax surplus to construct and operate an animal shelter.

The county commission may contract with a private entity to operate animal control and animal shelter facilities.

Dear Mr. Manasco:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION ONE

May the surplus from the four-mill tax for public health purposes pursuant to Amendment 72 of the Alabama Constitution of 1901, be used for the construction and operation of an animal shelter and for animal control?

FACTS AND ANALYSIS

Amendment No. 72 of the Constitution of Alabama 1901 authorized certain counties, of which Winston County is one:

"to levy and collect, in addition to all other taxes, a special county [tax], not exceeding four mills on each dollar of taxable property in the county to be used solely for acquiring, by purchase, lease or otherwise constructing, operating, equipping or maintaining county hospitals, or other public hospitals, non-profit hospitals and public health facilities . . ." [Emphasis added.]

In previous opinions, we have held that a tax levied for public health facilities may be expended for public health facilities as the county governing body deems to be in the public interest. See Attorney General's opinions dated September 17, 1986, and May 31, 1979. See also In re Opinion of the Justices, 252 Ala. 194, 41 So.2d 559 (1949).

The question then becomes whether a county pound operating pursuant to Code of Alabama 1975, § 3-7A-7 and § 3-7A-8 constitutes a "public health facility." We believe there is authority to support the position that such is a "public health facility."

The requirements for county control of the rabies program, including the county pound, are found at Code of Alabama 1975, § 3-7A-1, et seq. The provisions of this Act speak to the duties and responsibilities of the county health officer and county rabies officer in immunizing dogs and cats against rabies, impounding dogs and cats which lack immunization, and in the quarantining of dogs or cats which bite human beings. All of these duties are directed at the protection of the public health from rabies. Hence, the facilities used in administering this section of Alabama law may be construed to be "public health facilities."

CONCLUSION

Under Amendment No. 72 of the Constitution of Alabama 1901, Winston County may use the surplus from the four-mill tax for public health purposes which includes the construction and operation of an animal shelter and for animal control.

QUESTION TWO

Does the county have the authority to contract with a private entity to operate animal control and animal shelter facilities?

FACTS AND ANALYSIS

Code of Alabama 1975, § 11-3-11 provides that the county commission has the authority: "to direct, control and maintain the property of the county as it may deem expedient according to law. . . ."

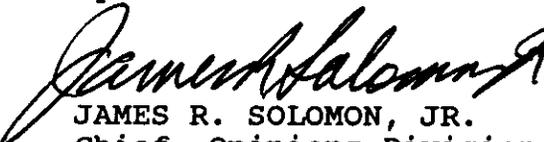
CONCLUSION

The county commission may contract with a private entity to operate animal control and animal shelter facilities.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division