

OFFICE OF THE ATTORNEY GENERAL



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Honorable E. C. (Crum) Foshee
State Senator, 31st District
P. O. Box 220
Andalusia, AL 36420

Electronic Voting - Pilot
Programs - Secretary of State
- State Funds

Once a county has agreed to participate in the electronic voting pilot project and has entered into a lease purchase agreement, the State is obligated to continue to make payments to the county for 50 percent of the annual county lease purchase payment.

Dear Senator Foshee:

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

QUESTION

Under Act No. 93-766, passed during the 1993 Regular Session of the Alabama Legislature, if a county is approved for a pilot project by the Secretary of State, would the State be obligated to the participating county for payment once the county has signed a contract?

FACTS AND ANALYSIS

Act No. 93-766 is codified at Code of Alabama 1975, § 17-24-20, et seq., and provides for the Secretary of State to implement a uniform system of electronic voting in counties participating in the pilot project. Section 17-24-21 authorizes participating counties to receive state funding and states as follows:

"Any county participating in the county project may be eligible to receive funding from the state for 50 percent of the costs to lease purchase an electronic voting system for a period of not to exceed eight years from funds appropriated for election purposes which may accrue from savings in administrative and printing expense through the use of electronic voting. The Secretary of State may use as a guideline in determining the funds available for state reimbursement for the pilot project to a participating county the amount of the state reimbursement to the counties for election purposes and printing costs who had leased election systems during the 1988, 1990, and 1992 election years. Any county participating in the pilot project may receive funding from the state for 50 percent of the annual county lease purchase payment for the electronic system in lieu of reimbursement to the county for future voting machine ballot printing costs." (Emphasis added.)

Your request concerns the use of the word "may" as used in "may receive funding." It is our understanding that counties enter into an agreement to participate in the pilot project and in reliance upon that agreement contract to lease purchase an electronic voting system. This agreement obligates the county to spend a tremendous amount of money for an electronic voting system. Under the provisions of § 17-24-21 a county can receive funding from the State for 50 percent of the annual county lease purchase payment. It is our opinion that once a county has agreed to participate in the project and has entered into a lease purchase agreement, the State is obligated to continue to make payments to the county for 50 percent of the annual county

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lease purchase payment.. A county that economically obligates itself in order to participate in the program should be able to rely upon continued payments from the State.

CONCLUSION

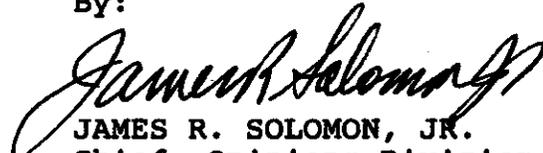
Once a county has agreed to participate in the electronic voting pilot project and has entered into a lease purchase agreement, the State is obligated to continue to make payments to the county for 50 percent of the annual county lease purchase payment.

I hope this sufficiently answers your question. 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

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