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OFFICE OF THE ATTORNEY GENERAL



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MAR - 6 1995

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Honorable John A. Nichols
County Attorney
P.O. Box 369
Luverne, Alabama 36049

Industrial Development -
Funds - Hospitals - Emergency
Medical Services

Proceeds from the tax levied
by Act No. 89-486, as amended
by Act No. 91-525, to be used
for "industrial development
uses" cannot be used by the
Crenshaw County Commission
for the reopening and
maintaining of the emergency
room at the county hospital.

Dear Mr. Nichols:

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

QUESTION 1

May the Crenshaw County Commission
utilize funds it has obtained from
the one cent sales tax and earmarked
"for industrial development uses"
pursuant to Act No. 91-525 and Act
No. 89-486 for the purpose of
reopening and maintaining the
emergency room at the Crenshaw
County Hospital?

FACTS, LAW AND ANALYSIS

Act No. 89-486 authorized the Crenshaw County Commission to levy an additional sales and use tax, and provided for the collection and distribution of the tax. Act No. 91-525 amended Act No. 89-486 to provide further for the distribution of the tax proceeds.

According to Section 7(3) of Act No. 89-486, as amended by Act No. 91-525:

"On September 30, 1991, September 30, 1993, and September 30, 1995, sixty percent of the monies in the reserve fund shall be appropriated to the Industrial Development Board to be used for industrial development in the county and forty percent shall be deposited in the general fund of the county for industrial development uses." (Emphasis added.)

You stated in your letter that the utilization of funds from the sales tax for the reopening and maintaining of the emergency room at the hospital would be a one-time financial contribution by the Crenshaw County Commission to the County Hospital Board.

When construing a statute, the words used in the statute should be given their plain, ordinary and commonly understood meaning. McGuire Oil Co. v. Mapco, Inc., 612 So.2d 417 (Ala. 1992). This office does not believe that "for industrial development uses" includes the reopening and maintaining of the emergency room at the county hospital.

The Attorney General recognizes and regrets the hardship placed on the citizens of Crenshaw County because of the closing of the emergency room. However, the intent of the Legislature as expressed and effectuated in Act No. 89-486 and Act No. 91-525 does not allow the proceeds from the tax levied thereby to be used for the purpose discussed herein.

CONCLUSION

Proceeds from the tax levied by Act No. 89-486, as amended by Act No. 91-525, to be used for "industrial development uses" cannot be used to make a one time contribution by the Crenshaw County Commission for the

reopening and maintaining of the emergency room at the county hospital.

QUESTIONS 2 & 3

2. If your answer to the above inquiry is in the affirmative, may the County Commission pay said funds to the Crenshaw County Hospital Board?
3. If your answer to No. 1 is in the affirmative, what steps should the county take to ensure that any funds remitted to Crenshaw County Hospital Board are used for the purposes intended?

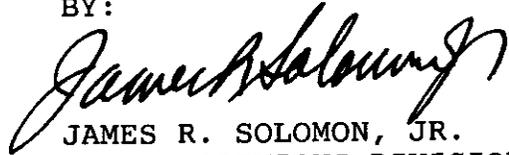
FACTS, ANALYSIS AND CONCLUSION

The above answer to Question 1 negates consideration of these questions.

I hope this sufficiently answers your questions. If our office can be of further assistance, please contact Jim Solomon of my staff.

Sincerely,

JEFF SESSIONS
Attorney General
BY:



JAMES R. SOLOMON, JR.
CHIEF, OPINIONS DIVISION

JS/LKO/cw
NA2.95/OP