

# OFFICE OF THE ATTORNEY GENERAL

95-00234

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ATTORNEY GENERAL  
STATE OF ALABAMA

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Honorable Betty Gaither  
Chairperson, Cleburne County  
Hospital Board  
P. O. Box 273  
Heflin, AL 36264

Counties - Hospital Boards -  
Ambulance Services - Contracts

Under the facts stated in the request, the Cleburne County Hospital may use Amendment No. 72 tax proceeds to contract with a nonprofit corporation to provide services to the citizens of the county and under that contract make periodic payments to the corporation providing the services.

The Cleburne County Hospital Board may purchase an ambulance for use by a nonprofit corporation to provide ambulance services to the county.

Dear Ms. Gaither:

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

## QUESTION 1

Whether or not the Cleburne County Hospital Board is authorized by law to contract with a private, nonprofit corporation to provide ambulance services within Cleburne County and to pay a periodic subsidy to the contracting

company from the Cleburne County Hospital funds derived from the 4-mill county tax levied for hospital purposes.

FACTS, LAW AND ANALYSIS

The following facts are set out in your request:

For a number of years, the Board has contracted for ambulance services based upon Attorney General's opinions, the first dated November 3, 1982, to Mr. Tillman L. Hill, Administrator of the Burdick-West Memorial Hospital in Haleyville, Alabama, which also relied upon an earlier Attorney General's opinion dated January 30, 1978, to Mr. Hoyt Levie, Chairman, Marshall County Hospital Board in Guntersville, Alabama. Up until this point in time, the request for funds from the ambulance service has not been too large; however, the Board is now being asked to virtually underwrite the entire operation of the ambulance service and to provide a vehicle for its use. Without some opinion directed to the Hospital Board, it is reluctant to do so. One reason for this is that the 1978 opinion to the Marshall County Hospital Board recites that, "The provision of the ambulance services is one of the things necessary to maintain and operate a hospital." The Cleburne County Hospital closed in 1990 and there is no hospital operating within this county. The ambulance service is an absolute necessity to provide emergency services to the citizens of Cleburne County and to transport patients to adjoining counties for hospitalization if necessary.

The Cleburne County Hospital Board was created pursuant to Amendment No. 72 to the Alabama Constitution of 1901 and Act No. 46 of the 1949 Acts of the Regular Session of the Alabama Legislature, which is now codified in Sections 22-21-70

through 22-21-83, and the Board is concerned with its use of these funds for the purposes stated herein.

Amendment No. 72, Constitution of Alabama 1901 authorized a special tax of not exceeding four mills on taxable property within a county for hospital and public health purposes upon approval by the voters of the county.

This office has concluded that a county hospital board may provide funds received from a tax levied pursuant to Amendment No. 72 to a county rescue service to assist in providing ambulance service to the county. Opinion to Honorable Irby A. Keener, Jr., Attorney, Cherokee County Hospital Board, dated February 24, 1992, A.G. No. 92-00188. A county may contract with a private ambulance company for ambulance services and pay a periodic subsidy for those services. Opinion to Mr. Tillman L. Hill, Administrator, Burdick-West Memorial Hospital, Haleyville, dated November 5, 1982, A.G. No. 83-00059.

The ambulance service which was the subject of the opinion to Honorable Irby A. Keener, supra, was a nonprofit corporation and provided voluntary emergency and auxiliary ambulance services for the citizens of Cherokee County. The Cherokee Hospital Board, according to the request for an opinion, did not operate a hospital, but owned and operated a nursing home.

#### CONCLUSION

It is the opinion of the Attorney General that in this instance the Cleburne County Hospital may use Amendment No. 72 tax proceeds to contract with a nonprofit corporation to provide services to the citizens of the county and under that contract make periodic payments to the corporation providing the services.

#### QUESTION 2

Whether or not the Cleburne County Hospital Board can use hospital funds to purchase an ambulance which consists of a substantial amount of money for the use by the private, nonprofit corporation to provide emergency and ambulance services to the people of Cleburne County, Alabama.

Honorable Betty Gaither  
Page 4

FACTS, LAW AND ANALYSIS

Section 94 of the Constitution of Alabama 1901 as amended prohibits counties and municipalities from giving money or anything of value in aid of a private person, corporation or association. However, a public hospital corporation is a separate entity from the State and from any local political subdivision and is not subject to this prohibition. Alabama Hospital Association v. Dillard, 388 So.2d 903 (Ala. 1980).

Furthermore, a hospital corporation may make expenditures that are within its corporate powers. Alabama Hospital Association v. Dillard, supra. The providing of ambulance services to citizens of the county is a health purpose for which Amendment No. 72 funds may be spent.

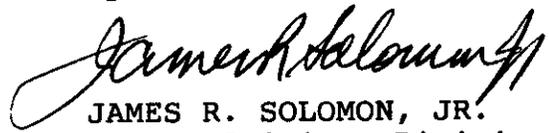
CONCLUSION

The Cleburne County Hospital Board may purchase an ambulance for use by a nonprofit corporation to provide ambulance services to the county.

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

Sincerely,

JEFF SESSIONS  
Attorney General  
By:

  
JAMES R. SOLOMON, JR.  
Chief, Opinions Division

JS/LKO/jho  
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