



2010-010

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

November 4, 2009

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ATTORNEY GENERAL

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Colleges and Universities – County  
Commissions – Public Funds –  
Public Purpose

The Mobile County Commission (“Commission”) may appropriate funds to the University of South Alabama, a state institution of higher learning, to be utilized in support of its football program if the Commission determines that the appropriation serves to promote economic development within the county.

Dear Mr. Ross:

This opinion of the Attorney General is issued in response to your request on behalf of the Mobile County Commission.

QUESTION

May the Mobile County Commission appropriate funds to the University of South Alabama, a state institution of higher learning, to be utilized in support of its football program?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that the Mobile County Commission has approved a \$500,000 appropriation to the University of South Alabama (“University”) for its football program. The team

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will play at Ladd-Peebles Stadium in Mobile. The football program is expected to increase the University's already substantial impact, promote tourism, and increase knowledge and awareness of the University and the Mobile area in general.

Section 94 of the Constitution of Alabama, as amended by Amendment 558, prohibits a municipality or county from giving money to a private person, corporation, or association. ALA. CONST. art. IV, § 94 (amend. 558). This Office has determined that the governing body may expend public funds if it determines a public purpose is served. Opinion to Honorable Donald R. Goetz Sr., Mayor, City of Jasper, dated April 10, 2000, A.G. No. 2000-121. A public purpose is served if the objective is to promote public health, safety, morals, security, prosperity, contentment, and the general welfare of the community. *Slawson v. Ala. Forestry Comm'n*, 631 So. 2d 953 (Ala. 1994).

Notwithstanding the foregoing, this Office has stated that section 94 of the Constitution is not violated when the transfer is between political subdivisions or public entities. *Rogers v. City of Mobile*, 277 Ala. 261, 279, 169 So. 2d 282, 299 (1964); opinion to Honorable H. Jerome Thompson, Attorney, Lawrence County Board of Education, dated May 2, 2005, A.G. No. 2005-122; opinion to Honorable Robert L. Potts, President, University of North Alabama, dated April 8, 2004, A.G. No. 2004-116. Accordingly, although the Mobile County Commission should not make appropriations that are inconsistent with its statutory or constitutional authority and overall purpose, transfers among governmental agencies are not subject to the limitations found within sections 93 or 94 of the Constitution of Alabama. *See, generally*, opinion to Honorable M. Barnett Lawley, Commissioner, Department of Conservation and Natural Resources, A.G. No. 2005-116, at 5.

Although you state that you believe such aid to the University will serve a public purpose, your particular concerns arise from the fact that the actions of the county may be prohibited because there is no specific or general statutory authority authorizing an appropriation of this nature by the county. In a subsequent conversation, however, you note that the proposed expenditure may be permissible pursuant to section 94.01 of the Recompiled Constitution of Alabama as the appropriation would promote economic development within Mobile County. Section 94.01 of the Recompiled Constitution of Alabama authorizes a county to grant public funds and things of value to aid any public or private individual or entity for the purpose of promoting economic or industrial development within the county. ALA. CONST. art. IV, § 94.01 (amend. 772). Accordingly, it

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is the opinion of this Office that the appropriation to the University of South Alabama is allowable if the Commission determines that the expenditure would promote economic development within the county and follow the tenants of section 94.01.

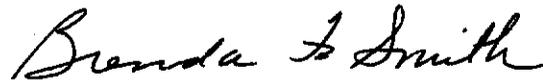
CONCLUSION

The Mobile County Commission may appropriate funds to the University of South Alabama, a state institution of higher learning, to be utilized in support of its football program if the Commission determines that the appropriation serves to promote economic development within the county.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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