2013-062

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Wendell Shelton
President, Randolph County Industrial
Development Council
Post Office Box 566
Roanoke, Alabama 36274

Industrial Development Councils – Tobacco Tax – Funds - Salaries

Section 6(c) of Act 2013-389 restricts the use of tobacco tax funds by the Randolph County Industrial Development Council ("Council"). Pursuant to the plain language of this provision, the Council may not use proceeds from the tax for salaries after the effective date of the law, which is May 23, 2013.

Dear Mr. Shelton:

This opinion of the Attorney General is issued in response to your request on behalf of the Randolph County Industrial Development Council.

QUESTION

Does Section 6(c) of Act 2013-389, which sets forth restrictions on the use of Randolph County Industrial Development Council tobacco tax funds, apply to tax funds collected prior to the governor's signing of Act 2013-389?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that recent legislation, Act 2013-389, was signed by the Governor of the State of Alabama on May 23, 2013. This particular act had sections that referenced the use of tobacco tax funds received by the Randolph County Industrial Development Council. The

Council seeks guidance with respect to the impact these restrictions may have on the use of tax funds received or collected prior to the Governor signing the act.

Act 2013-389 amended sections 3 and 6 of Act 2003-213 of the 2003 Regular Session, as amended by Act 2010-402 of the 2010 Regular Session. 2003 Ala. Acts No. 2003-213, 541 & 2010 Ala. Acts No. 2010-402, 663. Relevant to your particular inquiry are the revisions to section 6 of Acts 2010-402 and 2003-213, as well as the provision set forth in section 2 of Act 2013-389. These two sections respectively state as follows:

> "Section 6(c). The funds distributed to the Randolph County Industrial Development Council shall be expended solely for the recruitment of new or expansion of existing industries, including the purchase of industrial sites, infrastructure improvements, and other incentives for prospective new or existing industries to the end that the council may be able to provide jobs for the citizens of the area. ***None of the proceeds shall be used for salaries***, but the members of the council shall be entitled to reimbursement from funds of the council for their actual and necessary expenses incurred in the performance of their actual duties. Any additional money needed for salaries shall be generated from other sources."
>
> Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

2013 Ala. Acts No. 2013-389 (emphasis added).

Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). In this matter, the legislation states that none of the proceeds shall be used for salaries. Nothing within the legislation exempts the funds currently being held by the Council from being subject to the provisions of the act.

Accordingly, it is the opinion of this Office that none of the tobacco tax proceeds may be used for salaries on or after May 23, 2013–the effective date of the act. *See, generally*, opinion to Honorable James H. Alexander, Director, Department of Public Safety, dated August 1, 2001, A.G. No. 2001-235.

CONCLUSION

Section 6(c) of Act 2013-389 restricts the use of tobacco tax funds by the Randolph County Industrial Development Council. Pursuant to the plain language of this provision, the Randolph County Industrial Development Council may not use proceeds from the tax for salaries after the effective date of the law, which is May 23, 2013.

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

Sincerely,

LUTHER STRANGE
Attorney General
By:

BRENDA F. SMITH
Chief, Opinions Division

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