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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable James A. Patton
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County Commissions – Capital Improvements
Funds – Roads, Highways and Bridges

Section 11-29-6 of the Code of Alabama does not authorize the expenditure of the funds for the rehabilitation and upgrade of the fuel management system located on county property at the county road department.

Dear Mr. Patton:

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

QUESTION

Does section 11-29-6 of the Code authorize the expenditure of the funds for the rehabilitation and upgrade of the fuel management system located on county property at the county road department?

FACTS AND ANALYSIS

In your letter of request, you question whether section 11-29-6 of the Code authorizes the Colbert County Commission to expend the fund capital for the rehabilitation and upgrade of the fuel management system located on county property at the county road department. More specifically, you question whether such funds could be expended for work items associated with additional lighting, installation of a security camera system, construction of an additional fuel pump station, rehabilitation of an existing fuel pump station, rehabilitation of fuel storage tanks, construction of a fuel storage tank containment structure, and installation of a new fuel management system.

Sections 11-29-1 through 11-29-7 of the Code refer to the County Government Capital Improvement Act. ALA. CODE §§ 11-29-1 to 11-29-7 (2008). The purpose of this particular act is to assist counties “in the restoration and improvement of county government buildings, bridges, roads, streets, and other facilities, and to promote the health, safety, and public welfare of the citizens of the state.” ALA. CODE § 11-29-2 (2008). Section 11-29-6 of the Code, which sets out the manner in which funds shall be distributed, states as follows:

The fund capital shall be distributed to the several counties of the state and shall be paid on April 15 of the fiscal year for which each annual appropriation is made as follows:

Part of the funds to be paid to counties that is equal to 45.45 percent of the total of such portion shall be allocated equally among the 67 counties of the state; and the entire residue of the portion to be paid to counties, being an amount equal to 54.55 percent of such portion, shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census or, prior to the effective date of the 1990 decennial census, any special federal census held in any county subsequent to the effective date of the 1980 federal decennial census and prior to the adoption hereof. Such funds shall only be used by counties for the following purposes:

a. Public buildings; counties may expend such funds for the construction, furnishing, equipping, and renovation of public buildings including, without limitation, jails, courthouses and courthouse annexes, juvenile facilities, and paying rentals to public corporations for the use of public buildings. Such funds may also be expended for the purpose of purchasing land for public buildings.

b. Solid waste; counties may expend such funds for the purchase of land for sanitary landfills, the purchase of solid waste handling and disposal equipment including collection vehicles and landfill compaction

equipment, and other solid waste handling and disposal equipment and/or facilities.

c. Public utilities; counties may expend such funds for public water and waste water treatment facilities and drainage facilities. Such expenditures may include the purchase of land and rights-of-way, and the purchase of equipment and supplies necessary for the installation and maintenance of such public facilities.

d. Roads and bridges; up to 50 percent of the funds received by counties may be expended for the construction, maintenance, reconstruction, restoration, or resurfacing of county roads and bridges.

e. Bonds and warrants; counties may expend such funds for the payment of any valid obligation of a county that is evidenced by bonds, notes, warrants, or other instruments now or hereafter authorized by law to be issued for any of the purposes enumerated in clauses a, b, c, and d of this paragraph.

f. Public health; counties may expend funds for the operation and maintenance of the county health department.

g. Pensions and security; counties may expend funds for the operation and maintenance of the county human resources department.

ALA. CODE § 11-29-6 (2008) (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). Nothing within section 11-29-6 of the Code authorizes expenditures to be made for the purpose of rehabilitating or upgrading the county fuel management system.

The improvement projects mentioned in your inquiry—an additional fuel pump station, rehabilitation of an existing fuel pump station, lighting, security system, fuel storage system, and a new fuel management system—do not fit within the definition of a public building. See opinion to Honorable Stacy Bryan Brooks, Attorney, Covington County Commission, dated July 13, 2015, A.G. No. 2015-052 (defining the term “public building” as used in section 11-29-3 of the Code as a “building that is accessible to the public, especially one that is owned by the government”). Moreover, the improvement projects cannot be construed to fit within the “roads and bridges” provision set out in section 11-29-6 of the Code. ALA. CODE § 11-29-6 (2008).

This Office notes, however, that in your inquiry you also mention the purchase of security cameras and additional lighting. To the extent that such items are being purchased to equip or renovate public buildings used within the vicinity of the county fueling station, such purchases would be authorized pursuant to section 11-29-6(d) of the Code.

CONCLUSION

Section 11-29-6 of the Code does not authorize the expenditure of the funds for the rehabilitation and upgrade of the fuel management system located on county property at the county road department.

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