

February 26, 2001

Honorable Charles Griffin
Mayor
Town of Springville
Post Office Box 919
Springville, Alabama 35146-0919

Fire Departments - Ad Valorem Taxes - St.
Clair County

In the light of Amendment 652 to the
Constitution of Alabama, a fire department
is not eligible for funding from the fire
protection trust fund if it serves part of St.
Clair County but is not physically located
within the county.

Each fire department that is physically
located in St. Clair County should receive
an equal share of the proceeds from the
fire protection trust fund.

Dear Mayor Griffin:

This opinion of the Attorney General is issued in response to your request
on behalf of the Town of Springville.

QUESTION 1

In light of Act No. 97-459, now codified as
Amendment 652 to the Constitution of Alabama, is a
fire department eligible for funding if it serves part of
St. Clair County but is not physically located within
the county?

FACTS AND ANALYSIS

Act No. 97-459 is a local law that proposed an amendment to the Constitution of Alabama to levy an ad valorem tax on all taxable property located in St. Clair County for the benefit of fire and emergency medical services in the county. The Act was submitted at the November 3, 1998, election and was proclaimed ratified January 6, 1999. Act No. 97-459, codified as Amendment 652 of the Constitution of Alabama, states in pertinent part:

(a) In addition to all other ad valorem taxes levied, the St. Clair County Commission may levy on an annual basis, commencing with the tax year beginning October 1, 1997, an ad valorem tax on all taxable property located in St. Clair County at a rate of two mills per dollar of assessed value of the taxable property, the proceeds of which shall be paid into an expendable fire protection trust fund in the county treasury and allocated therefrom for fire protection and emergency medical services.

(b) Within 30 days of payment into the fire protection trust fund of the proceeds from the additional tax levied pursuant to (a), each eligible fire department in the county shall make a requisition to the county commission for a share of the tax proceeds in the fund. ***The county commission shall divide the funds equally among the eligible fire departments of St. Clair County.***

(c) Funds allocated to eligible fire departments shall only be expended for fire protection and emergency medical services including day to day operations, training, supplies, buildings, capital improvements, and equipment. All expenditures shall be documented with the county commission. ***An eligible fire department means a fire department located in St. Clair County which is certified under the guidelines of the Alabama Forestry Commission.*** Any tax proceeds allocated for fire protection and emergency medical services under this amendment may not be expended for salaries, food, drink, social activities, or fundraising activities. After receiving funds, the fire departments shall keep accurate records to verify that the funds were properly expended. By September 15th of each year, each fire department shall file a form with the county commission detailing the expenditures of all funds during the previous 12 months

and setting out a schedule of all proposed projects. The filing shall also account for all unspent funds and whether the unspent funds have been obligated. The St. Clair County Fire and Emergency Medical Service Association shall supply the accounting forms to each eligible volunteer fire department.

ALA. CONST. amend. 652 (emphasis added).

Your opinion request states that 25 fire departments are located within St. Clair County. In addition, seven fire departments that are located outside St. Clair County provide fire services to some residences and businesses within the county. In the past, the 25 fire departments located within St. Clair County have each received one share of the ad valorem taxes provided by Amendment 652, regardless of the population served, department size, or number of houses and businesses served. In addition, the seven fire departments outside the county have divided one share with each department receiving a percentage of the share based on the number of businesses or residences it serves.

Your request asks whether a fire department is eligible for funding pursuant to Amendment 652 if the fire station from which it operates is not located within St. Clair County. The fundamental rule of statutory construction is to ascertain and to give effect to the intent of the Legislature in enacting the law. *Gholston v. State*, 620 So. 2d 719, 721 (Ala. 1993). “Words used in the 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.” *Tuscaloosa County Comm'n v. Deputy Sheriffs' Ass'n of Tuscaloosa County*, 589 So. 2d 687, 689 (Ala. 1991), citing *Coastal States Gas Transmission Co. v. Alabama Public Service Comm'n*, 524 So. 2d 357 (Ala. 1988). Section (b) of the amendment provides that the St. Clair County Commission shall divide the funds equally among the eligible fire departments of the county. Section (c) defines “eligible fire department” as “a fire department **located in St. Clair County** which is certified under the guidelines of the Alabama Forestry Commission.” ALA. CONST. amend. 652 (emphasis added). Based on the plain language of the amendment, it is the opinion of this Office that only the fire departments physically located within St. Clair County are eligible to receive the ad valorem taxes provided by Amendment 652.

CONCLUSION

In the light of Amendment 652 to the Constitution of Alabama, a fire department is not eligible for funding if it serves part of St. Clair County but is not physically located within the county.

QUESTION 2

How should the funds collected pursuant to Amendment 652 be distributed to the eligible fire departments?

FACTS, ANALYSIS, AND CONCLUSION

Amendment 652 states specifically that “the county commission shall divide the funds equally among the eligible fire departments of St. Clair County.” Therefore, each fire department that is physically located in St. Clair County should receive an equal share of the proceeds from the fire protection trust fund.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Terri Olive Tompkins of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:

CAROL JEAN SMITH
Chief, Opinions Division