



STATE OF ARKANSAS

Office of the Attorney General

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Attorney General

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Opinion No. 94-219

August 17, 1994

The Honorable Brent Haltom
Prosecuting Attorney
Eighth Judicial District
Miller County Courthouse
Texarkana, Arkansas 75502

Dear Mr. Haltom:

This is in response to your request for an opinion on whether Hempstead County can appropriate funds for the purpose of building a library for Red River Technical College in Hope, Arkansas.

It is my opinion that the County may appropriate funds from undedicated sales tax proceeds for this purpose, or may call an election to levy a sales and use tax dedicated to the purpose of building a library for Red River Technical College. I have found no general authority, however, for the County to appropriate other tax monies (including general property tax dollars) for this purpose.

Express statutory authority for counties to appropriate sales and use tax dollars is found at A.C.A. § 6-53-307 (Cum. Supp. 1993). Existing undedicated sales tax dollars, or sales tax dollars specifically designated for technical college use may be used for "capital improvements" or the "maintenance and operation" of a technical college. The construction of a new library on campus would clearly be a "capital improvement," and thus Hempstead County could use such sales tax dollars for the desired purpose.

This conclusion is buttressed by A.C.A. § 6-53-207(e) (Cum. Supp. 1993), which provides that revenues derived from any local sales and use tax levied under A.C.A. §§ 26-74-201 *et seq.*, 26-74-301 *et seq.*, 26-75-201 *et seq.*, or 26-75-301 *et seq.*, may be used to finance "capital outlay" expenses for institutions of higher education. "Capital outlay expenses" would include the construction of a library. See A.C.A. § 6-53-103(2). See also Op. Att'y Gen. 93-053 (copy enclosed.)¹

I have found no separate statutory authority for counties to appropriate monies to technical colleges, other than the sales tax dollars discussed above. In my opinion such statutory authority is required, as the General Assembly is given authority to determine the method of financing of technical colleges in Amendment 52 to the Arkansas Constitution, and has not seen fit to provide for county support, other than in the form of sales tax dollars. In addition, in light of this fact, it does not appear that the funding of technical colleges would be a "local legislative matter" over which counties have independent legislative authority. See again Op. Att'y Gen. 93-053.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Elana C. Wills.

Sincerely,


WINSTON BRYANT
Attorney General

WB:ECW/cyh

Enclosure

¹ This opinion was issued prior to the enactment of Act 867 of 1993, codified at A.C.A. § 6-53-307, discussed earlier.