

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL  
ATTORNEY GENERAL  
500 CHARLOTTE AVENUE  
NASHVILLE, TENNESSEE 37243-0497**

March 22, 2000

Opinion No. 00-053

Authority of County to Impose a Surcharge on Disposal of Municipal Solid Waste at a Privately Owned Disposal Facility

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**QUESTION**

Does any part of Tenn. Code Ann. § 68-211-835 authorize a county to impose a surcharge on the disposal of municipal solid waste at a privately owned disposal facility located in the county?

**OPINION**

It is the opinion of this Office that pursuant to Tenn. Code Ann. § 68-211-835 of the Solid Waste Management Act, a county may impose a surcharge on a privately owned solid waste disposal facility located in the county which accepts municipal solid waste in two instances. First, Tenn. Code Ann. § 68-211-835(e) authorizes a host fee. Second, Tenn. Code Ann. § 68-211-835(f) authorizes a surcharge on disposal of municipal solid waste. Each of these subsections includes conditions on the implementation of the fee, and limitations on the expenditure of the revenues collected.

**ANALYSIS**

The Solid Waste Management Act of 1991, Tenn. Code Ann. §§ 68-211-801 to -874 (Act), authorizes a county to levy a surcharge on a privately owned solid waste disposal facility which accepts municipal solid waste and which is located within the county borders in two circumstances. First, a county that is host to a solid waste disposal facility used by other counties in the same solid waste disposal region may impose a surcharge on municipal solid waste received at any such facility upon resolution of the county legislative bodies in the region. Tenn. Code Ann. § 68-211-835(e). Section 835(e) applies to a privately owned solid waste disposal facilities as well publicly owned facilities. *See* Op. Tenn. Atty. Gen. 00-025 (Feb. 15, 2000) (copy attached).

The Act provides that the surcharge “shall be imposed on each ton or volume equivalent of municipal solid waste so received.” Tenn. Code Ann. § 68-211-835(e). The revenue generated by this surcharge must be “expended for solid waste management purposes, or for purposes related

to offsetting costs incurred and other impacts resulting from the county being host to the solid waste disposal facility. . . .” *Id.* A county imposing such a surcharge “shall appropriate funds derived from the surcharge revenue” to any municipality in the host county that incurs costs due to a municipal solid waste disposal facility. *Id.*

Second, upon approval of a regional solid waste management plan, a county may impose a surcharge on each ton of municipal solid waste received at a solid waste disposal facility located in the county. Tenn. Code Ann. § 68-211-835(f)(1)(A). Again, this provision applies to publicly and privately owned facilities. Revenue derived from such a surcharge shall be expended only for solid waste collection or disposal services consistent with the Act. *Id.* See Op. Tenn. Atty. Gen. 99-088 (Apr. 8, 1999) (copy attached).

In sum, it is the opinion of this Office that a county does have the authority under the Solid Waste Management Act to impose a surcharge on a privately owned solid waste disposal facility, located in the county, for the disposal of municipal solid waste. See Tenn. Code Ann. §§ 68-211-835 (e) and (f). The Act imposes specific restrictions on the circumstances under which the surcharge may be imposed, and on the expenditure of the surcharge revenues collected.

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