S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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May 8, 2001

Opinion No. 01-076

Contribution of city funds to special school district

QUESTION

Is it legal for the City of Trenton to give monies collected from city taxpayers to the Trenton Special School District?

OPINION

Yes.

ANALYSIS

The analysis of this question requires that we look at two sets of city tax revenues: (1) the City's share of the county's local option sales tax levy; and (2) the proceeds of other City taxes.

1. The City's share of the county's local option sales tax.

Tennessee counties and municipalities are entitled to impose local option sales taxes on top of the state sales tax. Presently the maximum local option sales tax is 2.75%. The levy of a tax by the county precludes, to the extent of the county tax, any city or town within the county from levying a tax. But if the county has not imposed the maximum rate, a city or town then has a right to levy a tax at a rate equal to or less than the difference between the county rate and the maximum rate.[1]

One half of the proceeds of the county local option sales tax is devoted by law to school purposes. If there are multiple school systems within the county this one-half share is distributed among such school systems according to the number of students served by each system.[2] The other half is distributed among

[1]Tenn. Code Ann. § 67-6-701 *et seq.*

[2]The City of Trenton is in Gibson County. There are 5 school systems in Gibson County: Gibson County Special School District, Humboldt municipal system, and the Bradford, Milan, and Trenton Special School Districts. The difference between a municipal and a special school district is that a municipal district is created under the city's charter by the city's voters. Special School Districts are created by private act of the General Assembly.

the cities, towns, and the unincorporated area of the county according to the location where the local option sales tax was collected.[3] In Gibson County the Trenton Special School District receives a share of the first one-half of the county local option sales tax collections devoted to education according to its share of the county's total school population. The City of Trenton receives a share of the remaining one-half of the county local option sales tax, not allocated to school purposes, according to the amount of county sales taxes collected within the city's boundaries.

There are no statutory restrictions on how local bodies spend their shares of the county local option sales taxes that are not allocated to school purposes. However, the statute specifically authorizes a county or city or town to enter into a contract providing for the distribution of this share not allocated to school purposes.[4] The City of Trenton could enter into a contract with the Trenton Special School District to distribute to the school district some or all of the city's share of county local option sales tax receipts.

2. Other City tax receipts.

Cities have such powers as are given them by their charters, and by the general law.[5] The General Assembly has the power to authorize counties and cities to impose taxes for county and city purposes, and it has exercised that power to give such local government bodies the authority to levy and collect a variety of taxes. The charter for the City of Trenton grants the City Council the power to levy such taxes as may be authorized by law, to appropriate funds, and "the power to pass all such ordinances as may be necessary for the proper government and general welfare of the city." [6] This office has previously opined that "[d]espite the formation of the Trenton Special School District, education is still a legitimate concern of the City [of Trenton]."[7] Consequently, it is the opinion of this office that the City of Trenton may give money collected from City of Trenton taxpayers to the Trenton Special School District.

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[3]TENN. CODE ANN. § 67-6-712.

[4]TENN. CODE ANN. § 67-6-712(a)(2)(C).

[5]19 Tenn Jur., Municipal Corporations, § 22-23, and cases cited therein.

[6]1903 Tenn. Acts, ch 551, as amended by 1907 Tenn.Acts, ch. 488.

[7]Op. Tenn. Atty Gen. U81-009 (January 15, 1981) at p. 3. (Copy attached).

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