

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 07-01

Development Districts as Regional Tourism Organizations

QUESTION

Must the Greater Nashville Regional Council and the Southeast Tennessee Developmental District be “regularly chartered, nonprofit tourist promotion organization[s]” as set forth in Tenn. Code Ann. § 4-3-2207(b), in order to contract with the Tennessee Department of Tourist Development as regional tourism organizations?

OPINION

No. The Commissioner of the Tennessee Department of Tourist Development has broad statutory authority to enter into contracts with agencies of any type to effectuate the intent and purpose of Tenn. Code Ann. §§ 4-3-2204, 4-3-2206, 4-3-2207, and 4-3-2008. A “regularly chartered, nonprofit tourist promotion organization” relates only to the State’s authority to match local contributions under Tenn. Code Ann. § 4-3-2207(b).¹

ANALYSIS

The tourism division of the Tennessee Department of Tourist Development is charged with “promot[ing] new investment in the tourist industry, provid[ing] comprehensive services to existing tourist enterprises, promot[ing] in other states the attractions of Tennessee, distribut[ing] Tennessee informational publications and supervis[ing] the system of welcome centers.” Tenn. Code Ann. § 4-3-2204(b). The Commissioner of Tourist Development is required to:

- (1) Collect, compile and distribute literature as to the facilities, advantages and attractions of the state, the historic, recreational and scenic points and places of interest within the state and the transportation and highway facilities of the state;

¹This opinion does not address the scope of authority of the Greater Nashville Regional Council and the Southeast Tennessee Developmental District to perform any specific functions. *See generally* Tenn. Code Ann. §§ 13-14-101 *et seq.* and 64-7-101 *et seq.*

(2) Plan and conduct a program of information and publicity designed to attract to the state tourists, visitors and other interested persons from outside the state, and also encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the state for the same purposes;

(3) Publicize the material and economic advantages of the state that render it a desirable place for business and residence; and

(4) Carry on such educational programs as are necessary to familiarize the people of the state with the scenic, historical, industrial, recreational and agricultural advantages or needs of the state.

Tenn. Code Ann. § 4-3-2206(a). To carry out these duties, the Commissioner has the authority to:

(1) Form contracts with agencies of any type or wherever situated, that will tend to promote the objectives of advertising Tennessee to nonresidents;

(2) Gather and compile, in accordance with the rules, regulations, policies and procedures of the state publications committee, information from branches of state government and others, that will promote authentic information for advertising purposes;

(3) Enter into cooperative agreements and contracts with such individuals, partnerships, corporations public or private, associations, societies, educational institutions, chambers of commerce, automobile associations, and other organized groups as may be deemed advantageous and proper by the commissioner to effectuate the intent and purpose of § 4-3-2204, this section and §§ 4-3-2207, 4-3-2208; provided, that an authenticated copy of all such contracts shall be filed with the comptroller of the treasury and shall be approved by the attorney general and reporter;

(4) Accept unconditional gifts of money to be expended in furtherance of the purposes of § 4-3-2204, this section and §§ 4-3-2207, 4-3-2208;

(5) Within the limits of available funds, match any moneys advanced for the purposes of § 4-3-2204, this section and §§ 4-3-2207 and 4-3-2208, by the federal government, or by any state, county,

municipality, corporation, association, society or individual; and

(6) Within the limits of available funds, enter into such cooperative agreements or contracts with any instrumentality of the federal government, municipal or county government of Tennessee, or any other state or group of states that, in the judgment of the commissioner, will effectuate the purposes of § 4-3-2204, this section, and §§ 4-3-2207 and 4-3-2208.

Tenn. Code Ann. § 4-3-2206(a). These provisions have existed in Tennessee statute virtually unchanged since at least 1956. *See* Tenn. Code Ann. § 11-603 (1956).

In 1970, the legislature added what is now codified as Tenn. Code Ann. § 4-3-2207(b) and which, as amended, provides as follows:

From and after the creation of any regularly chartered, nonprofit tourist promotion organization representing all the area within a planning region of this state as delineated by the state planning office and reiterated by Executive Order No. 17,² and when the local people shall indicate their willingness to contribute financially, then the state shall be authorized to match such local contributions up to a maximum of thirty-five thousand dollars (\$35,000) annually on the basis of two dollars (\$2.00) in matching state funds for each one dollar (\$1.00) contributed by the local people involved. The aggregate of such funds may also be used for purposes of matching various federal programs of assistance for tourist promotion. Cities and counties are specifically authorized to appropriate and expend funds for carrying out the purposes of § 4-3-2204, § 4-3-2206, this section and § 4-3-2208.

See 1970 Tenn. Public Acts ch. 552, § 1. You have asked whether, by virtue of Tenn. Code Ann. § 4-3-2207(b), the Greater Nashville Regional Council and the Southeast Tennessee Developmental District are required to be “regularly chartered, nonprofit tourist promotion organization[s]” in order to contract with the Tennessee Department of Tourist Development as regional tourism organizations.

²Pursuant to the Development District Act of 1965, the legislature authorized the department of economic and community development, in cooperation with counties, municipalities, and local development agencies, to create regional development districts conducive to efficient planning and orderly economic development of the state. Tenn. Code Ann. §§ 13-14-101 and 13-14-102. Nine development districts were established by Governor Ellington in Executive Order No. 17 (October 14, 1968), as amended on June 23, 1970. These nine development districts were given the responsibility for area-wide planning in their respective districts. Tenn. Code Ann. § 13-14-102(b). However, the legislature left “to existing county, municipal and state governments and their instrumentalities the carrying out of all plans for physical, economic and resource development, as provided for under existing laws.” Tenn. Code Ann. § 13-14-103(a).

The phrase “regularly chartered, nonprofit tourist promotion organization” appears only in Tenn. Code Ann. § 4-3-2207(b), where it relates to the state’s authority to match local contributions “[f]rom and after the creation of any regularly chartered, nonprofit tourist promotion organization representing all the area within a planning region of this state . . . when the local people shall indicate their willingness to contribute financially, . . . up to a maximum of thirty-five thousand dollars (\$35,000) annually.” Tenn. Code Ann. § 4-3-2207(b) does not address the type of entities that may contract with the Tennessee Department of Tourist Development as regional tourism organizations; this authority is found in an unrelated provision of Title 4, Chapter 3, Part 22. Tenn. Code Ann. § 4-3-2206(a) provides that the Commissioner of Tourist Development has broad statutory authority to enter into contracts with agencies of any type to effectuate the intent and purpose of Tenn. Code Ann. §§ 4-3-2204, 4-3-2206, 4-3-2207, and 4-3-2008. Therefore, the Greater Nashville Regional Council and the Southeast Tennessee Developmental District need not be “regularly chartered, nonprofit tourist promotion organization[s]” as set forth in Tenn. Code Ann. § 4-3-2207(b), in order to contract with the Tennessee Department of Tourist Development as regional tourism organizations.

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