S T A T E O F T E N N E S S E E
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Opinion No. 07-118

Lawrenceburg Utility Systems as "Municipality" under Tenn. Code Ann. § 26-2-105

QUESTION

Under Tenn. Code Ann. § 26-2-105(a), "moneys received as pension from the state of Tennessee, or any subdivision or municipality thereof" before receipt, while in the recipient's hands, or upon deposit in the bank, are generally exempt from execution, attachment, or garnishment. Is Lawrenceburg Utility Systems a "subdivision" or "municipality" within the meaning of this statute?

OPINION

Yes, the Lawrenceburg Utility Systems is a municipality for purposes of Tenn. Code Ann. § 26-2-105(a).

ANALYSIS

This opinion addresses the scope of Tenn. Code Ann. § 26-2-105(a), which provides:

> (a) All moneys received as pension from the state of Tennessee, or any subdivision or municipality thereof, before receipt, or while in the recipient's hands or upon deposit in the bank, shall be exempt from execution, attachment or garnishment other than an order for assignment of support issued under § 36-5-501, whether such pensioner is the head of a family or not.[1]

The question is whether Lawrenceburg Utility Systems is "any subdivision or municipality" of the State of Tennessee within the meaning of this statute. Research discloses that Lawrenceburg Utility Systems, sometimes also referred to as the Lawrenceburg Board of Public Utilities, is a department of the City of Lawrenceburg. As such, it falls within the term "municipality" as used in Tenn. Code Ann. § 26-2-105(a). *Coke v. Coke,* 560 S.W.2d 631 (Tenn. Ct. App. 1977), *p.t.a. denied* (1978) (city's utility pension fund fell within the statute then in effect). When *Coke* was decided, the statute did not contain the phrase "other than an order for assignment of support issued under § 36-5-501," or subdivisions (b) and (c). Subdivisions (b) and (c), however, refer to private plans and are not relevant to this question. Nor does the exclusion of support under Tenn. Code

[1] The General Assembly recently amended subdivision (b) of this statute. 2007 Tenn. Pub. Acts Ch. 176. That change does not affect the question addressed in this opinion.

Ann. § 36-5-501 change the class of pension plans exempt under Tenn. Code Ann. § 26-2-105(a). The Court's ruling that a city utility pension fund falls within this statute, therefore, is still valid. For this reason, the Office concludes that the Lawrenceburg Utility Systems is a municipality for purposes of Tenn. Code Ann. § 26-2-105(a).

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