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Opinion No. 09-154

Revenues earmarked under Tenn. Code Ann. § 56-4-205(c)

QUESTION

Does Tenn. Code Ann. § 56-4-205(c) represent legislative intent to move surplus revenues generated by the premium tax on fire insurance identified in Tenn. Code Ann. § 56-4-208 to eligible volunteer and paid firefighters for the express purpose of firefighter safety equipment and training?

OPINION

Tenn. Code Ann. § 56-4-205(c) earmarks funds from the premium tax on fire insurance to pay a salary supplement to eligible firefighters employed by local governments. It does not authorize these funds to be used for any other purpose.

ANALYSIS

This opinion concerns the legislative intent behind Tenn. Code Ann. § 56-4-205(c). That statute provides:

> From revenues generated by the premium tax on fire insurance levied by this section, a sum sufficient shall be earmarked for the payment of the pay supplement of six hundred dollars ($600) to eligible firefighters by the commission on firefighting personnel standards and education pursuant to title 4, chapter 24.

See also 2009 Tenn. Pub. Acts Ch. 554 (appropriations act) § 7, Item 12, p. 36; § 64, Item 4, pp. 117-118. The question is whether this statute represents legislative intent to move surplus revenues generated by the premium tax on fire insurance to eligible volunteer and paid firefighters for the express purpose of firefighter safety equipment and training.[1]

[1] The opinion request indicates that Tenn. Code Ann. § 56-4-205(c) refers to a premium tax on fire insurance imposed by Tenn. Code Ann. § 56-4-208. But the premium tax referred to in subsection(c) of § 56-4-205 is imposed by subsection (a) of that same statute. The fee imposed on companies writing fire insurance and lines of business having fire coverage under Tenn. Code Ann. § 56-4-208 is "for the purpose of executing the fire marshal law." Tenn. Code Ann. § 56-4-208(a).

Tenn. Code Ann. § 56-4-205(c) earmarks revenues from the premium tax on fire insurance for the payment of the pay supplement of six hundred dollars to eligible firefighters by the Commission on Firefighting Personnel Standards and Education under Tenn. Code Ann. §§ 4-24-101, *et seq.* Tenn. Code Ann. § 4-24-101 creates the Commission on Firefighting Personnel Standards and Education (the "Commission"). The Commission is charged with recommending standards of performance, courses of instruction and training, and procedures for certifying levels of achievement for full-time municipal and volunteer firefighters. Tenn. Code Ann. § 4-24-102. The General Assembly recently amended this statutory scheme to add a new section 4-24-112. This new section establishes minimum training requirements for full-time, part-time, or volunteer firefighters hired on or after July 1, 2009, along with provisions governing applicability to various local governments. 2009 Tenn. Pub. Acts Ch. 512.

The Commission is responsible for administering the educational incentive described in Tenn. Code Ann. §§ 4-24-201, *et seq.* Under this statutory scheme, firefighters employed by local governments are entitled to receive a six hundred dollar pay supplement if they complete an in-service training course each year, or otherwise meet the requirements of the statute. Tenn. Code Ann. § 4-24-202. The term "firefighter" means:

> …any person in the ***employ*** of a unit of government who is a member of the fire department of such unit, is trained in firefighting or prevention of fires, and is actively engaged in such work, and whose primary livelihood is derived from such work[.]

Tenn. Code Ann. § 4-24-201(2) (emphasis added). The term "unit of government" means:

> …any county, municipality, the state of Tennessee or any political subdivision or agency thereof, employing firefighters, all of whom must meet the minimum employment standards established by the commission.

Tenn. Code Ann. § 4-24-201(3). It appears, therefore, that volunteer firefighters are not generally eligible to receive the salary supplement under Tenn. Code Ann. §§ 4-24-201, *et seq.* The funds, which are paid to local governments for payment in turn to the firefighters, may be used only as a cash salary bonus supplement to firefighters. *Id.*; Tenn. Code Ann. § 4-24-203. By its terms, therefore, Tenn. Code Ann. § 56-4-205(c) earmarks funds from the premium tax on fire insurance to pay a six hundred dollar salary supplement to eligible firefighters employed by local governments. It does not authorize these funds to be used for any other purpose.

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