S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 12-86

Use of Public Funds to Promote Adoption of Charter County Form of Government

QUESTION

Is a county charter commission authorized to use public funds to advocate adoption of the charter county form of government in an upcoming referendum?

OPINION

No.

ANALYSIS

This opinion addresses the authority of a charter commission formed to propose a county charter under Tenn. Code Ann. §§ 5-1-201 to -215. This statutory scheme authorizes the creation of a charter commission to propose a county charter providing for an alternative form of county government under Tenn. Code Ann. § 5-1-210. Once the proposed charter has been certified to the county election commission, the election commission must hold a referendum election for the ratification or rejection of the charter. Tenn. Code Ann. § 5-1-209(a). Tenn. Code Ann. § 5-1-207 provides:

> (a) Whenever any charter commission is established, it shall be the duty of the legislative body of the county to appropriate sufficient funds to defray the expenses of such commission, which appropriation shall be not more than fifty thousand dollars ($50,000). Such funds shall be disbursed by the county mayor or other fiscal officer of the county upon vouchers or warrants signed by the chair and the secretary of such commission.
>
> (b) All public officials shall, upon request, furnish the commission with all information and assistance necessary or appropriate for its work.

The question posed is whether the charter commission is authorized to use county funds under this statute to actively promote adoption of the charter in an upcoming referendum. Tenn. Code Ann. § 5-1-208 lists the duties of the charter commission with regard to its proposed charter. Subsection (c) of the statute provides:

> Such charter commission shall take such other steps within the limitation if its available funds as it deems reasonable and appropriate *to inform the public throughout the county of the contents of the proposed charter*, and the same may be published or summarized in pamphlets and booklets to be made available for general distribution.

Tenn. Code Ann. § 5-1-208(c) (emphasis added). Thus, the charter commission may use available funds only to inform the public of the contents of the proposed charter. The statute does not permit the commission to use these funds to advocate for or against the adoption of the proposed charter. *See Rich v. Tennessee Bd. Of Medical Examiners* 350 S.W.3d 919, 927 (Tenn. 2011) (citing the rule of statutory construction that the expression of one subject in a statute implies the exclusion of other unmentioned subjects). Furthermore, this Office has recently opined that, absent express statutory authority, a local government may not use county funds to pay for communications that advocate for or against the adoption of a measure in a local referendum. Op. Tenn. Att'y Gen. 12-31 (March 8, 2012). In this case, neither the county nor the charter commission is expressly authorized to use funds for this purpose. Therefore, a charter commission is not authorized to use public funds to promote adoption of the charter county form of government in an upcoming referendum.

ROBERT E. COOPER, JR.
Attorney General and Reporter

WILLIAM E. YOUNG
Solicitor General

ANN LOUISE VIX
Senior Counsel

Requested by:

The Honorable Kelly T. Keisling
State Representative
108 War Memorial Building
Nashville, Tennessee 37243