

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

March 27, 2015

Opinion No. 15-27

Use of Maury County Adequate Facilities Tax Funds to Service Public Facility Debt

Question

May Maury County use funds generated by the Maury County Adequate Facilities Tax to service debt on a proposed justice center?

Opinion

Yes, assuming that the need for the justice center is reasonably related to new development in Maury County.

ANALYSIS

Engaging in new development in Maury County is a taxable privilege upon which the General Assembly, through 1991 Tenn. Priv. Acts, ch. 118 (the “Act”),¹ has authorized that county to levy a privilege tax. This tax is known as the Maury County Adequate Facilities Tax. *See id.* at § 1. The Act specifies that “[a]ll tax funds collected by the County shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.” *Id.* at § 9. The act defines a public facility as

[A] physical improvement undertaken by the County or city, including, but not limited to the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the County and/or city.

Id. at § 2(n).

A “justice center” would presumably house courtrooms, clerks’ offices, court personnel, and various other court functions. Such a facility would certainly qualify as a “government building” and would thus be a public facility under the act.

¹ “Development” is defined to include “the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure of the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or nonresidential use.” 1991 Tenn. Priv. Acts, ch. 118, § 2(f). Certain exceptions are enumerated in section 6 of the private act.

In order to qualify for funding from the Adequate Facilities Tax, the need for the proposed justice center—or any other public facility—must be “reasonably related to new development.” Whether the need for the proposed justice center is reasonably related to new development in Maury County is a fact-intensive question separate from the legal question that has been posed, *i.e.*, how Maury County may use the funds collected under the Adequate Facilities Tax. For purposes of this opinion, we assume that the proposed justice center is reasonably related to new development.

The Act specifies that “[a]ll tax funds collected by the County shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.” If the justice center is reasonably related to new development, then, under the Act, Maury County may use adequate facilities tax funds “for the purpose of providing” that justice center.

The Act does not prohibit other possible financing methods. While the Act expressly limits the use of the adequate facilities tax funds to the circumscribed purpose of providing for a qualified public facility, nothing in the Act restricts the use of the funds to projects capable of being fully funded solely by adequate facilities tax revenue and no other financing source. The General Assembly is not presumed to have implied any limitation that it did not express in the legislation. *See, e.g., Lucius v. City of Memphis*, 925 S.W.2d 522, 526 (Tenn. 1996) (declining to find a limitation on the applicability of a statute absent statutory language to that effect). Therefore, the use of non-tax sources—such as bond revenue—to fund the project does not run afoul of any limitation imposed by the Act on the use of the tax revenue.

The question then becomes whether using funds to “provide” a public facility includes using the funds to service debt on a project that is otherwise fundable by the tax. In our opinion, it does.

Well-established principles of statutory construction govern the interpretation of the Maury County Adequate Facilities Tax. *See, e.g., Home Builders Ass’n v. Williamson County*, 304 S.W.3d 812, 817 (Tenn. 2010).

The primary rule governing our construction of any statute is to ascertain and give effect to the legislature’s intent. To that end, we begin by examining the language of the statute. In our examination of statutory language, we must presume that the legislature intended that each word be given full effect. When the import of a statute is unambiguous, we discern legislative intent “from the natural and ordinary meaning of the statutory language within the context of the entire statute without any forced or subtle construction that would extend or limit the statute’s meaning.”

Id. (internal citations omitted).

Read without forced construction and giving the statutory language its plain meaning, the Act requires only that the adequate facilities tax funds be used to “provide” a qualified public facility. When used, as here, as a transitive verb, “provide” means “to supply or make available

(something wanted or needed).”² If the county government’s means of providing the justice center is to issue a bond to raise the funds necessary for the project, then servicing the debt on that bond issue is simply part-and-parcel of providing the justice center. Using adequate facilities tax funds to service debt is thus a means for providing a justice center just as much as directly paying, upfront, the cost of the justice center with those funds. Thus, the plain and unambiguous language of the Act provides no basis on which to prohibit the use of adequate facilities tax funds to service debt on a qualifying public facility.

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² Merriam-Webster Dictionary, *available at* <http://www.merriam-webster.com/dictionary/provide> (last visited March 10, 2014)