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OPINION NO. 85-115

May 28, 1985

Honorable Cliff Hoofman
State Senator
3001 John F. Kennedy
North Little Rock, AR 72116

RE: Act 866 of 1985

Dear Senator Hoofman:

On May 6, 1985, this Office received your opinion request regarding Act 866 of 1985 as follows:

. . . .can an individual city or county elect to individually self insure its employees and officials for worker's compensation, or does the measure require the cities and counties to either obtain insurance from a private carrier or join with other cities and counties in a state-wide co-operative effort to protect their employees?

The plain language of this Act requires all municipalities and counties who choose to be self-insured, to do so on a state-wide basis. Sutherland Statutory Construction, Vol.2A, §46.01. §2 of Act 866 provides:

Municipalities and counties are specifically authorized to provide this coverage through either private carriers or by self-funding on a statewide basis. (Emphasis added).

This section gives each municipality or county two(2) choices as to how it may provide worker's compensation coverage:

1. Obtain coverage through a private carrier, or
2. Self-insure on a statewide basis.

Municipalities and counties are not authorized by §2 to self-insure other than on a statewide basis (i.e., individually). Had the legislature intended to authorize municipalities and counties to self-insure either individually or by group less than statewide, the language "on a statewide basis" would not have been included. This language is clear and unambiguous and, as such, must be given its literal effect. State v. Lee, 277 Ark. 142, 639 S.W.2d 745 (1982).

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General David S. Mitchell.

Sincerely,



STEVE CLARK
Attorney General

SC/DSM/ljm