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STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

September 10, 1985

OPINION NO. 85-194

Mr. Charles L. Robinson
Legislative Auditor
State Capitol
Little Rock, Arkansas 72201

Dear Mr. Robinson:

You have requested an opinion from our office on the following questions:

1. May a city council approve the payment of purchases if the Mayor fails to do so?
2. If the answer to question one is "yes", may the City Treasurer issue checks to make payment for such purchases?

"When construing statutes, the primary object is to carry out the legislative intent which is determined primarily from the language of the statute considered in its entirety." Thompson v. Younts, 282 Ark. 524, 527, 667 S.W. 2d 471, 472 (1984). "Also, in determining legislative intent, each section of the statute is to be read in light of every other section, and the object and purposes of the act are to be considered." Chism v. Phelps, 228 Ark. 936, 939, 311 S.W. 2d 297, 299 (1938).

You have referred us to Ark. Stat. Ann. §19-4426 (1980) which provides the following:

The Mayor, or his duly authorized representative, may approve for payment out of funds previously appropriated for that purpose, or disapprove any bills, debts or liabilities asserted as claims against the city, provided, the governing body shall by ordinance establish in that connection a maximum amount, and the payment, or disapproval of such bills, debts or liability exceeding such amount shall require the confirmation of the governing body.

Viewing this section in light of the other sections governing the fiscal affairs of municipalities, we feel the legislature did not intend for the mayor's approval to be indispensable to the payment of claims against the

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city. "The word 'may' . . . is construed in a permissive sense unless it can be said that . . . the provision of a statute is the essence of the thing required to be done. . . ." Lovett v. State, 267 Ark. 912, 914, 591 S.W. 2d 683, 684 (1979). It should be noted that §19-4426 vests sole approval and disapproval authority in the mayor only in the situation in which the governing body passes an ordinance setting a ceiling on the dollar amount to which the authority applies. Thus, it can not be said that the mayor's approval or disapproval of claims against the city is the essence of the thing required to be done.

Accordingly, we conclude that §19-4426 permits municipalities to establish a more expedient procedure for the payment of routine claims against the City. However, in the absence of an ordinance establishing this procedure, or in the situation where the mayor fails to approve claims against the city, the city council may approve the payment of such claims and the city treasurer may issue checks to pay for such purchases. A contrary construction of §19-4426 would permit the mayor to sterilize the city's cash flow. The Arkansas Supreme Court has stated they "should never construe an act, which does not state the intention of the legislature in clear and unambiguous terms, to reach an illogical result, when it can be construed to reach a logical one." City of Fort Smith v. Brewer, 255 Ark. 813, 819, 502 S.W. 2d 643, 646 (1973).

The foregoing opinion, which I hereby approve, was prepared by Chief Deputy Attorney General Rodney Parham.

Yours truly,


STEVE CLARK
Attorney General

SC:RP:lm