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JUSTICE BUILDING, LITTLE ROCK 72201

December 27, 1985

(501) 371-2007

OPINION NO. 85-224

The Honorable Travis A. Miles
5426 Highland Drive
Fort Smith, AR 72903

Dear Senator Miles:

This formal opinion is written in response to the following request:

"Does the City of Fort Smith have the legal authority to compete outside the city limits with a private concern which is engaged in the business of removing industrial refuse."

Pursuant to Ark. Stat. Ann. §19-1042 et seq. a first class city has the following authority:

"Any city of the first class is hereby authorized to perform any functions and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including but not limited to the power to tax"

The statute defines "municipal affairs" as. . .all matters and affairs of government germane to, affecting or concerning the municipality or its government except the following which are state affairs and subject to the general laws of the State of Arkansas. . ."

In addition, Ark. Stat. Ann. §82-2713 states:

"Any county or municipality in this State is hereby authorized to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in facilities of any nature necessary or desirable for the control, collection, removal, reduction, disposal, treatment or other handling of refuse.

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A city may collect industrial refuse outside the city limits. This particular activity falls within the purview and intent of Ark. Stat. Ann. §82-2713 and Ark. Stat. Ann. §19-1042, provided, the county does not operate a refuse collection service and there is no interference with state law that would preempt the municipalities operations.

The foregoing opinion, which I hereby approve was prepared by Assistant Attorney General J. Mark Lewis.

Sincerely,



STEVE CLARK
Attorney General

SC/JML/mo