



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
201 EAST MARKHAM STREET
HERITAGE WEST BUILDING
LITTLE ROCK, ARKANSAS 72201

(501) 371-2007

OPINION NO. 86-287

April 21, 1986

Honorable Jimmie Lou Fisher
State Treasurer
State Capitol
Little Rock, AR 72201

RE: County Solid Waste Management System

Dear Ms. Fisher:

This opinion is in response to your request concerning the distribution of State appropriated funds pursuant to the County Solid Waste Management System Aid Fund. Specifically, your question concerns whether under Section 3 of Act 986 of 1985 a county is required to match dollar for dollar any funds received from the County Solid Waste Management System Aid Fund.

It is the opinion of this office that the answer to your question is no. Section 1 of Act 986 of 1985 creates the "COUNTY SOLID WASTE MANAGEMENT SYSTEM AID FUND". The purpose of which is to provide financial assistance to counties and for the establishment, expansion, maintenance, and operation of county solid waste collection and disposal systems. Section 3 of this Act provides that the counties are required on or before the first day of the beginning of the fiscal year to furnish the State Treasurer the following information:

1. Proof that the county operates, or is in the process of establishing a solid waste management system ***.
2. That the quorum court of the county has established and approved a budget for the operation of the County Solid Waste Management System for such fiscal year, and that the county have appropriated funds therefore in an amount sufficient to support not less than fifty percent (50%) of the costs of operating the solid waste management system, and the funds appropriated therefore will be used solely for the cost of establishing, operating, and maintaining the solid waste system, and

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for hiring of personnel and for the acquisition of equipment and land required to operate the solid waste management system and disposal.

If any county shall fail, during any fiscal year, to expend an amount of county funds equal to at least fifty percent (50%) of the costs of operating its solid waste management system, or shall use any of the state funds allocated thereof under the provisions of this act for any purpose other than as intended by the Act, said county shall be ineligible to receive monies during the next following fiscal year from the County Solid Waste Management System Aid Fund, but may make reapplication for State assistance funds during the year next following thereafter, upon offering the appropriate assurances in writing, the county will meet the full requirements of the intent and purpose of this Act in the use of such funds.

The State Treasurer is required to distribute monies to eligible counties monthly as authorized in this Act and these funds shall be credited and used solely for the support and operation of the County Solid Waste Management System. Section 2 of this Act provides that these funds are distributed to the counties on the basis of seventy-five percent (75%) divided equally among the seventy-five (75) counties of the State and twenty-five percent (25%) on the basis of population according to the most recent dicennial federal census. Furthermore, Section 4 provides that if a county shall fail to qualify for its proportionate share of money in the County Solid Waste Management System Aid Fund during any fiscal year then money normally apportioned to the county failing to qualify would be reapportioned among the various counties which qualify to receive their proportionate share of County Solid Waste Management System Aid Fund monies.

Thus, it appears that the answer to your question is no for at least two reasons. First, Section 2 appears to provide a specific mechanism by which these funds can be distributed to the counties. This method does not consider the actual cost of establishing, operating, or maintaining the County Solid Waste Management System. It appears that the purpose of this Act is to provide financial assistance to the county while at the same time insuring that the county pay at least fifty percent (50%) of the cost of operating

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its County Solid Waste Management System. It does not appear that the county should be penalized for paying on a dollar for dollar basis when the actual cost may be less than the amount appropriated by the State to the individual counties pursuant to Section 2 of this Act.

Secondly, it does not appear that the Legislature intended to require the counties to pass an additional appropriation ordinance in order to match additional State funds on a dollar for dollar basis because another county was unable to qualify pursuant to Section 4 of this Act.

Thus, it appears to be the intention of the Legislature that the counties be required to pay for at least one-half of the cost of establishing, operating and maintaining the solid waste system, and for the hiring of personnel and for the acquisition of equipment and land required to operate the Solid Waste Management System and disposal. It does not appear to be the intention of the Legislature to require the county to match on a dollar for dollar basis the amount of funds appropriated by the State and distributed to the counties pursuant to Section 2 and Section 4 of Act 986 of 1985.

The foregoing opinion which I hereby approve was prepared by Assistant Attorney General Rick D. Hogan.

Sincerely,


STEVE CLARK
Attorney General

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