



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

September 23, 1986

OPINION NO. 86-361

Mr. Ron Fields
Prosecuting Attorney
Twelfth Judicial District
Crawford County Courthouse
Van Buren, Arkansas 72956

Dear Mr. Fields:

This letter is in response to your request for an opinion regarding the procedure which the Crawford County Quorum Court must follow to establish an increase in fees levied for that county's emergency medical services and also regarding the County Coroner's potential conflict of interest in owning and/or managing the county's ambulance service.

Act 742 of 1977, Ark. Stat. Ann. §17-3801 et seq., gives the quorum court of any county the authority to provide for emergency medical services but the authority created under Act 742 is governed and limited by the procedural requirements of Act 51 of 1979, Ark. Stat. Ann. §82-3410 et seq. Vandiver v. Washington County, 274 Ark. 561, 628 S.W.2d 1 (1982).

Arkansas Statutes Annotated §82-3411 and §82-3412, as sections of Act 51 of 1979, prescribe the specific mechanism for quorum courts to follow in adopting an ordinance to provide emergency medical services. Those sections provide, in pertinent part, as follows:

§82-3411:

When a quorum court purposes to enact an ordinance to provide emergency medical services whether on its own motion or upon petition of electors, it shall set a date for a public

hearing on the question and shall cause notice of the time and place of such hearing to be published in a newspaper of general circulation in the county or in the area proposed to be served. All interested parties residing in the county or in the designated area shall have an opportunity to appear and be heard either for or against the establishment of such system. At the next meeting of the quorum court after such hearing, the quorum court may adopt an ordinance establishing the emergency medical services system for the county or the designated area of the county or may refuse to act further on the matter.

If after such hearing the quorum court enacts an ordinance establishing a system, the ordinance shall specifically describe the area to be included with the system, describe the services to be provided the residents of the area and shall specifically state the estimated cost of the services and the proposed method of financing the services, and such other matters as the quorum court deems appropriate to publicly advise residents of the county or the designated area of the purposes and costs of the system established in the ordinance.

§82-3412:

Within ten days after the enactment of such ordinance, a copy of the ordinance in its entirety shall be published in a newspaper of general circulation in the county or in the designated area. The ordinance shall be subject to the referendum which may be exercised in the manner prescribed in Amendment 7 to the constitution of Arkansas and laws enacted pursuant thereto and such ordinance shall not be effective until the expiration of the time prescribed by the Constitution and laws for the filing of referendum petitions. If at the expiration of the period for filing

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referendum petitions, no such petitions have been filed, the ordinance shall become effective. If referendum petitions have been filed, such ordinance shall be held in abeyance until the election thereon is conducted and results determined. If at such election a majority of the qualified electors of the county or the designated area voting on the question vote for the ordinance it shall become effective. If a majority of the qualified electors voting on the question at such election vote against the ordinance, it shall be deemed rejected and shall have no force or effect.

From the above statutes, the Crawford County Quorum Court must follow those procedures in enacting any ordinance to provide the proposed emergency medical services. The quorum court has the option, according to Ark. Stat. Ann. §82-3411, of making its own motion or waiting for a petition from the electors.

As to the second issue raised in your request regarding whether the County Coroner has a conflict of interest as either owner or manager of the ambulance service which provides service to the county under a sealed-bid contract process, it is the opinion of this office that both these situations, as either owner or manager, do in fact present a prohibited conflict of interest under Ark. Stat. Ann. §17-4208, Ethics for County Officials and Employees. As either owner or manager of the county's ambulance service, the County Coroner is interested in the contract entered into between the ambulance service and the county. Such interest is prohibited by Ark. Stat. Ann. §17-4208(3)(a). As either owner or manager of the county's ambulance service, the County Coroner has an interest in a business which he has reason to believe may be directly affected to its economic benefit by official action to be taken by county government. Such interest is prohibited by Ark. Stat. Ann. §17-4208(3)(c). And, as County Coroner, he may in be in a position to perform an official act directly affecting a business to its economic detriment when he has a substantial financial interest in a competing firm. Such an act is prohibited by Ark. Stat. Ann. §17-4208(3)(d).

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The fact that the contract with the ambulance service was awarded through a sealed-bid process seems to be irrelevant in this matter since the conflict of interest has arisen and therefore precluded any question of sealed or unsealed bidding processes.

The foregoing opinion, which I approve, was prepared by Rhonda K. Hill, Assistant Attorney General.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark", written in a cursive style.

STEVE CLARK
ATTORNEY GENERAL

SC:RKH:pr