

STATE OF TENNESSEE

OFFICE OF THE
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Opinion No. 03-128

Use of Fines Under Tenn. Code Ann. § 55-10-452

QUESTIONS

Can the funds provided for in Tenn. Code Ann. § 55-10-452 be used for the purposes of drug testing on offenders placed on misdemeanor probation, or for hiring a Probation Officer for the purposes of supervising drug and alcohol offenders only?

OPINIONS

No. The funds provided for in Tenn. Code Ann. § 55-10-452 can only be used for the programs enumerated in the statute, and not for any other purpose.

ANALYSIS

Tenn. Code Ann. § 55-10-452 provides that:

The respective counties shall be authorized to expend the funds generated by the increased fines provided for in Acts 1994, ch. 948, by appropriations to alcohol and drug treatment facilities licensed by the department of health; metropolitan drug commissions or other similar programs sanctioned by the governor's Drug Free Tennessee program for the purposes of Acts 1994, ch. 948; organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code (26 U.S.C. § 501(c)(3)) whose primary mission is to educate the public on the dangers of illicit drug use or alcohol abuse or to render treatment for alcohol and drug addiction; or organizations that operate drug and alcohol programs for the homeless or indigent.

The statute itself lists four items for which funds collected under Tenn. Code Ann. §§ 55-10-403 and 55-10-451 may be used.¹

¹ Chapter 948, §§ 1-3 of the Public Acts of 1994 increased the fine amounts in Tenn. Code Ann. § 55-10-403. Tenn. Code Ann. § 55-10-451 determines what the increased portions of the fines are and creates a dedicated fund, separate from the county general fund, in which the money is placed.

"The cardinal rule of statutory construction is to follow the plain meaning of the statute where the language is clear and unambiguous on its face." *Jackson v. General Motors Corp.*, 60 S.W.3d 800, 804 (Tenn. 2001). In this instance, the language is unambiguous. Funds collected under Tenn. Code Ann. § 55-10-403 are specifically earmarked for appropriations to the listed programs. No other usage is mentioned in the statute. The statutory construction canon of *expressio unius est exclusio alterius*, meaning "the expression of one thing implies the exclusion of all things not mentioned," is routinely followed by the courts when interpreting statutes such as § Tenn. Code Ann. § 55-10-452. *See State v. Adler*, 92 S.W.3d 397, (Tenn. 2002).

Therefore, it is the opinion of this Office that the funds provided for in Tenn. Code Ann. § 55-10-452 may not be used for any purpose other than those enumerated in the statute.

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