

STATE OF TENNESSEE
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September 18, 2008

Opinion No. 08-148

Fire and Ambulance Service Fees in Shelby County

QUESTIONS

1. What laws govern fire and ambulance fees in Shelby County?
2. What is the State's role in setting these fees?

OPINIONS

1. Fire service fees in Shelby County are set by the Shelby County Division of Public Works under Tenn. Code Ann. § 5-16-109. Similarly, ambulance service fees would be set or regulated by the county if the county furnishes the service directly or under a service contract, franchise agreement, license, regulations, or interlocal agreement with other counties and cities.

2. Under current law, these fees are set by the local governing bodies providing or contracting for the service. No state agency plays a direct role in setting these fees.

ANALYSIS

1. Fire and Ambulance Fees in Shelby County

This opinion concerns fire and ambulance fees in Shelby County. The first question is what state laws govern these fees. A copy of the Fire Fee Rules and Regulations issued by the Shelby County Division of Public Works appears on Shelby County's governmental website. These rules indicate that Shelby County provides fire service under Tenn. Code Ann. §§ 5-16-101, *et seq.* Under § 5-16-101, counties are authorized to provide various urban type public facilities and to impose fees, rates, and charges for such facilities. Under subsection (b)(2) of the statute, the term "urban type public facilities" includes fire protection in Shelby County. Fire fees are set by the Division of Public Works for Shelby County. Under this statutory scheme, a county agency or board operates the facilities. Tenn. Code Ann. § 5-16-104. This board may establish charges for the facilities:

(a) The board or administrative agency shall determine and fix charges to be made for furnishing any and all of the facilities as provided in this chapter, upon a basis calculated to ensure the fiscal solvency of the operation at all times.

(b) The board or administrative agency is further authorized and directed to make and publish reasonable rules and regulations covering the use by any individual, firm or corporation of any facility furnished to users.

Tenn. Code Ann. § 5-16-109. This Office discussed setting fire service fees under this statute in Op. Tenn. Att’y Gen. 98-227 (December 1, 1998), and the statute has not been amended since that time.¹

Tenn. Code Ann. §§ 7-61-101, *et seq.*, addresses ambulance services in cities and counties. Under Tenn. Code Ann. § 7-61-102, the governing body of any county or city in Tennessee may “provide and maintain and do all things necessary to provide ambulance service as a public service.”² Tenn. Code Ann. § 7-61-103 provides:

The governing body of any county or city may license, franchise, or contract for private operators or nonprofit general welfare corporations to provide ambulance service. In order to protect the public health and welfare, any county or city may adopt and enforce reasonable regulations to control the provision of private or nonprofit ambulance service.

Under Tenn. Code Ann. § 7-61-104, in Davidson and Shelby Counties, any two or more counties and municipalities may enter into agreements for joint or cooperative action to provide for ambulance service authorized under Tenn. Code Ann. §§ 7-61-102 and -103. No county or city may set standards less stringent than state standards adopted under Tenn. Code Ann. §§ 68-140-501, *et seq.* Tenn. Code Ann. § 68-140-506(g). These standards do not address ambulance fees. But the Division of Emergency Services within the Tennessee Department of Health charges licensing, permitting, and certification fees to ambulance service providers. Tenn. Code Ann. § 68-140-517; Tenn. Rules and Regulations Ch. 1200-12-1-.06. These fees, if applicable, would be part of an ambulance provider’s costs and, presumably, reflected in service fees. If the city or county provides ambulance service directly, the governing body of the city or county would set the fees. Where the county or city licenses, franchises, or contracts with a private

¹ When Opinion 98-227 was written, the county was operating its fire department within the Division of General Services. Presumably, the fire department has since been transferred to the Division of Public Works as authorized under Section 3.06 of the Shelby County Charter.

² We assume the request concerns the schedule of fees that the ambulance provider charges a patient. The extent to which these fees may ultimately be recoverable, of course, will depend on any medical insurance or public health care programs in which the patient is enrolled. This opinion will only address the schedule of fees that the ambulance provider charges a patient, and not the extent to which the provider may ultimately be able to recover the fee.

entity to provide the service, the local government could regulate fees under its service contract or franchise agreement, or through licenses.

2. State Regulation of Fire and Ambulance Fees in Shelby County

The second question is what role the State plays in regulating fees. Under current law, these fees are set by the local governing bodies providing or contracting for the service. Fees for fire service in Shelby County are set by the Shelby County Division of Public Works. Fees for ambulance service in Shelby County would be set by the county if it provides the service directly, through its service contract or franchise agreement with a private entity to provide the service, or under licenses it might issue to private ambulance services or regulations it might adopt to govern provision of ambulance service. If the county has entered into an interlocal agreement with other counties or with cities, then fees would be set under that agreement. Under current law, no state agency plays a direct role in setting county fire or ambulance service fees.

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