

**STATE OF TENNESSEE**

OFFICE OF THE  
ATTORNEY GENERAL  
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March 15, 2002

Opinion No. 02-034

Failure to Adopt a Budget

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**QUESTION**

What are the foreseeable consequences of the failure of the General Assembly to adopt a budget, including a continuation budget, by June 30?

**OPINION**

This Office addressed the consequences of the failure to enact an appropriations act in Op. Tenn. Atty. Gen. 00-83 (May 4, 2000). Since that time, the General Assembly has passed statutes that expressly appropriate debt service for general obligation debt. Tenn. Code Ann. § 9-9-103(b). In addition, a statute now expressly appropriates the earnings, revenues, and other assets of the Tennessee State School Bond Authority, the Tennessee Local Development Authority, the Tennessee Housing Development Agency, and the Tennessee State Veterans' Homes Board for expenditures authorized by or pursuant to the enabling legislation creating those agencies. Tenn. Code Ann. § 9-4-5107(a). The same statute appropriates the earnings, revenues or other assets pledged by any public higher education entity whose contracts with the Tennessee State School Bond Authority support the payment of that agency's debt service. Otherwise, the consequences of the failure to enact an appropriations act have not altered materially since the May 4, 2000 opinion was issued.

**ANALYSIS**

The request asks this Office to describe the foreseeable consequences of the failure of the General Assembly to adopt a budget, including a continuation budget, by June 30, when the current fiscal year ends. The term "budget" appears to refer to an appropriations act applicable to all or a part of the subsequent fiscal year. Under the Tennessee Constitution, "no public money shall be expended except pursuant to appropriations made by law." Tenn. Const. Art. II, § 24. Under this provision, all state revenues, whatever the source, must be appropriated by the General Assembly before those monies may be spent. This Office addressed the consequences of the failure to enact an appropriations bill in 2000. Op. Tenn. Atty. Gen. 00-083 (May 4, 2000). A copy of that opinion is attached. With one major exception, the conclusions in that opinion remain valid. Thus, as a general matter, absent the enactment of an appropriations bill by the end of the current fiscal year, there will be no authority in most circumstances for the State of Tennessee to spend money. An agency could spend funds appropriated by another act and

in accordance with its terms, and only pursuant to a work program established by the Governor under Tenn. Code Ann. §§ 9-4-5110 — 9-4-5112. Whether any particular act besides the appropriations act is an appropriation would depend on the particular act and its terms. Our 2000 opinion addresses in detail the various obligations that the State would or would not be authorized to pay if the General Assembly does not enact an appropriations act for the next fiscal year.

The major change concerns the continued operation of three state agencies authorized to issue debt and, more specifically, the response to Question 8 in our 2000 opinion regarding the authority of the State to pay debt service on bond obligations. In 2001, the General Assembly passed 2001 Tenn. Pub. Acts Ch. 264. That act amended state law to provide an express continuing appropriation of monies for debt service for general obligation debt. Tenn. Code Ann. § 9-9-103(b). In addition, the act clarified state law regarding the Tennessee State School Bond Authority, the Tennessee Local Development Authority, the Tennessee Housing Development Authority, and the Tennessee State Veterans' Homes Board. Tenn. Code Ann. § 9-4-5107 now provides:

(a) By authorizing the issuance of debt that is not a liability of the state and the payment of debt service thereon by the state school bond authority in title 49, by the local development authority in title 4, by the housing development agency in title 13, and by the state veterans' homes board in title 58, the general assembly intends that such authorizations constitute:

(1) With respect to each debt issuer listed above, a direct and continuing appropriation to that debt issuer of its earnings, revenues or other assets for expenditures authorized by or pursuant to the respective enabling legislation and the authority to expend those funds in accordance with or pursuant to such legislation; and

(2) With respect to any public higher education entity whose contracts or agreements with the state school bond authority support the payment of such debt issuer's debt service, a direct and continuing appropriation to that entity of its earnings, revenues or other assets pledged or governed by such contracts or agreements and the authority to expend those funds in accordance with or pursuant to the respective contracts or agreements.

(b) Such funds are hereby appropriated on a direct and continuing basis to each debt issuer listed in subsection (a) and to each public higher education entity described in subsection (a) for such purposes.

These agencies could therefore continue to pay debt service from their revenues and expend their revenues in accordance with their statutory purposes even if the General Assembly does not enact an appropriations act before the end of the current fiscal year. No other statute appears to have been

Page 3

amended in a way that would materially affect the other conclusions in Op.Tenn.Atty.Gen. 00-083 (May 4, 2000).

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