

**STATE OF TENNESSEE**  
**OFFICE OF THE**  
**ATTORNEY GENERAL**  
POST OFFICE BOX 20207  
NASHVILLE, TENNESSEE 37202

May 18, 2004

Opinion No. 04-093

Appropriation of Funds for Signing and Marking Memorial Highways and Bridges

---

**QUESTIONS**

1. Does Tenn. Code Ann. § 54-1-133 constitute a standing general appropriation of funding for the cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway or memorial bridge for a member of the military or a state or local public safety official killed in the line of duty?

2. Does Tenn. Code Ann. § 54-5-1003 require a separate appropriation of funding for payment of the cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway for a state law enforcement officer killed in the line of duty?

**OPINIONS**

1. Tenn. Code Ann. § 54-1-133 authorizes the Tennessee Department of Transportation to fund the cost of the signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway or memorial bridge for a member of the military or a state or local public safety official killed in the line of duty, but Tenn. Code Ann. § 54-1-133 does not constitute a standing general appropriation of funds for such costs.

2. Tenn. Code Ann. § 54-5-1003 expressly provides that the cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway for a state law enforcement officer killed in the line of duty shall be paid from the highway fund, subject to appropriation by the General Assembly, but Tenn. Code Ann. § 54-5-1003 does not appropriate the funds to pay such costs. Accordingly, the General Assembly must separately appropriate the funds to pay such costs.

**ANALYSIS**

In 2002 the Tennessee General Assembly amended Title 54 of the Tennessee Code Annotated to authorize the Tennessee Department of Transportation to fund the cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway or memorial

bridge for certain individuals killed in the line of duty. Two amendments were enacted.

Section 5 of Chapter 790, which is codified as Tenn. Code Ann. § 54-1-133, provides as follows:

The department shall fund from resources in the highway fund the cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway or memorial bridge for any of the following individuals killed in the line of duty:

- (1) A member of the military, including the reserves and national guard; or
- (2) Any state or local public safety official, including, but not limited to, members of the highway patrol, county law enforcement officials, local police officers, firefighters, whether paid or volunteer, and emergency medical personnel.

The foregoing provision is part of a statute enacted to name a segment of U.S. Highway 31A in Metropolitan Nashville-Davidson County in honor of Police Officer Candace Ripp. 2002 Tenn. Pub. Acts Ch. 790.

Section 5 of Chapter 792, which is codified as Tenn. Code Ann. § 54-5-1003, provides as follows:

The cost of signage and marking of an interstate, U.S. highway, or state highway designated as a memorial highway for a state law enforcement officer killed in the line of duty shall be paid from the highway fund, subject to appropriation by the general assembly.

Chapter 792 designates a segment of Interstate Highway 40 the “John Robert Davis Memorial Highway” and directs the Department of Transportation “to erect suitable signs or to affix suitable markers” to so designate that segment of Interstate Highway 40 as a memorial to Trooper Davis. According to its title, Chapter 792 is a statute enacted to amend Title 54 of the Tennessee Code Annotated and to enact the “Tennessee Law Enforcement Officers Memorial Highway Act of 2002.” 2002 Tenn. Pub. Acts Ch. 792.

Neither Chapter 790 nor Chapter 792 contains the statutory language required by law for a bill making an appropriation from the state treasury. 2002 Tenn. Pub. Acts Ch. 790 and 792.

Article II, Section 24 of the Tennessee Constitution provides in relevant part that “[n]o public money shall be expended except pursuant to appropriations made by law.” The Tennessee Supreme Court has defined *appropriation* as an authority from the legislature, given at the proper time and in legal form, to the proper officers, to apply sums of money, out of that which may be in the treasury, in a given year to specified objects or demands against the State. *State ex rel. Noonan v.*

*King*, 108 Tenn. 271, 67 S.W. 812 (1902). An appropriation may be made by a bill other than a general appropriation bill. *Id.*

While Chapter 790 and Chapter 792 authorize the Tennessee Department of Transportation to fund the costs of signage and marking memorial highways, those statutes do not contain the statutory language required by law for a bill making appropriations from the state treasury. Tenn. Code Ann. § 9-4-5108(d) requires the following:

The title of any bill making appropriations from the treasury shall include the phrase, “This act makes appropriations for (here insert the object).” The title shall also state whether the act shall be for a limited period of time or for an indefinite period. If for a limited period of time, the title shall state that time period.

Tenn. Code Ann. § 9-4-5108 (Supp. 2003). The title to Chapter 790 is “AN ACT to name a segment of U.S. Highway 31A (State Route 6 or Ellington Parkway) in Metropolitan Nashville-Davidson County in honor of Police Officer Candace Ripp.” 2002 Tenn. Pub. Ch. 790. The title to Chapter 792 is “AN ACT to amend Tennessee Code Annotated, Title 54, and to enact the “Tennessee Law Enforcement Officers Memorial Highway Act of 2002.” 2002 Tenn. Pub. Ch. 792. Neither title satisfies the requirements of Tenn. Code Ann. § 9-4-5108(d).

It is the opinion of this office that the General Assembly must enact a bill or bills in the manner required by Tenn. Code Ann. § 9-4-5108(d) in order to properly appropriate funds for the payment of the costs of signage and marking memorial highways and memorial bridges which the General Assembly has authorized by the provisions of Tenn. Code Ann. §§ 54-1-133 and 54-5-1003.

---

PAUL G. SUMMERS  
Attorney General and Reporter

---

MICHAEL E. MOORE  
Solicitor General

---

LARRY M. TEAGUE  
Deputy Attorney General

Page 4

Requested by:

The Honorable James W. White  
Executive Director  
Fiscal Review Committee  
G-19 War Memorial Building  
Nashville, Tennessee 37243