**STATE OF TENNESSEE**
OFFICE OF THE
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March 9, 2009

Opinion No. 09-25

Shelby County Centralized Purchasing System

## QUESTION

Whether the Shelby County Trustee must use the County's centralized purchasing system, including the purchasing provisions set forth in the Shelby County Charter, the County's ordinances, and the County Administration's rules and regulations utilized in carrying out the provision of the purchasing procedures and comply with the state law provisions of Tennessee Code Annotated Section 8-22-104(a)(3) and 107(b) which regulate the accounting for and payment of fees.

## OPINION

Yes.

## ANALYSIS

Shelby County operates a charter form of county government. Pursuant to Section 2.02C of the Shelby County Charter, the Shelby County Board of Commissioners is required to establish purchasing procedures by ordinance and has done so by incorporation of the purchasing procedures the county previously utilized while operating under the 1974 Restructure Act into the county's Code of Ordinances. The provisions of that private act have been codified in Chapter 2 of the Code of Ordinances.

As authorized by the Shelby County Charter, the purchasing ordinances provide that the County Mayor may promulgate administrative rules and regulations for the purpose of carrying out the procedures established by ordinance. Together with the Administrator of Purchasing and the Chief Administrative Officer, as required by the purchasing ordinances, the County Mayor has established such rules and regulations.[1] Issues have been raised by the Shelby County Board of Commissioners concerning the refusal of the Shelby County Trustee to comply with the County's centralized purchasing system.

[1] This Office has been unable to obtain a copy of such rules and regulations, and therefore, has not reviewed them.

Tenn. Code Ann. § 8-22-104(a)(3) grants authority to the legislative body, the County Commission, to make the necessary appropriation to pay expenses for the operation of offices, including the Trustee's office, and in such event all fees shall be paid to the county monthly. On June 3, 1991, the County Commission adopted a resolution pursuant to the authority granted in Tenn. Code Ann. § 8-22-104(a)(3).

Tenn. Code Ann. § 8-22-107 provides that in counties with a population of 600,000 or more all purchases of all necessary, books, stationery, office equipment, stamps and supplies of all kinds used in the office of elected officials shall be accomplished through a centralized purchasing procedure in that county pursuant to the applicable laws relative to that county for purchasing. This statute applies to Shelby County.

8-22-107(b) provides:

> (b) Notwithstanding the provisions of subsection (a), in counties with a population of six hundred thousand (600,000) or more according to the 1970 federal census, or any subsequent census, all necessary books, stationery, office equipment, stamps and supplies of all kinds used in the conduct of the various offices of the elected county officers enumerated in this chapter shall be furnished and paid for by the county, including premiums on official bonds executed by such officers named in § 8-22-101, and *all such purchases shall be accomplished through a centralized purchasing procedure in that county pursuant to the applicable laws relative to that county for purchasing.* No official or officer enumerated in § 8-22-101 shall be entitled to purchase any of the aforementioned items for the officer's office by using the fees, commissions or emoluments collected by the officer. (Emphasis added).

In conclusion, the Shelby County Trustee should remit to the county all fees collected on a monthly basis pursuant to Tenn. Code Ann. § 8-22-104(a)(3), and all office purchases should be made through the county's centralized purchasing system pursuant to Tenn. Code Ann. § 8-22-107(b).

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Requested by:

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