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OPINION LETTER NO. 28-90

The Honorable George Dames
Representative, District 17
State Capitol Building, Room 300B
Jefferson City, Missouri 65101

Dear Representative Dames:

This opinion letter is in response to your question asking:

As used in section 67.550, RSMo Supp.
1988, what does the term "maintenance"
include?

We have not been provided a list of particular expenditures to review to determine if each constitutes "maintenance;" therefore, we will have to address your question in general terms.

Section 67.550.3, RSMo Supp. 1989, provides:

67.550. Sales tax imposed in certain first class counties--rate of tax--election procedure--revenue to be used to build and maintain certain facilities--effective when--terminates when (St. Charles and Jefferson Counties).--

* * *

3. All revenue received by a county from the tax authorized under the provisions of sections 67.550 to 67.580 shall be deposited in a special trust fund and shall be used solely for the construction of a jail, a juvenile facility, a sheriff's office, county administrative and judicial capital improvements, county park development,

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parking facilities and physical improvements related thereto within such county for so long as the tax shall remain in effect. Once the tax authorized by sections 67.550 to 67.580 is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for the maintenance of the facilities and buildings constructed with revenues raised by the tax authorized by sections 67.550 to 67.580. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other county funds. [Emphasis added.]

* * *

While "maintenance" has been defined in other contexts, the legislature has provided no definition for this provision. See Sections 227.210 and 290.210(4), RSMo 1986. Thus, we must construe this word within the context of Chapter 67, RSMo. The primary rule of statutory construction is to ascertain the intent of the legislature from the language used, to give effect to that intent if possible, and to consider the words used in their plain and ordinary meaning. Wolff Shoe Company v. Director of Revenue, 762 S.W.2d 29, 31 (Mo. banc 1988).

The word "maintenance" has been defined as:

"a maintaining or being maintained; upkeep, support, . . . the work of keeping a building, machinery, etc. in a state of good repair. . . ."

Webster's New World Dictionary, Second College Edition, 1980, page 854.

The word "maintain" has been defined as:

"1. to keep or keep up; continue in or with; carry on 2. a) to keep in existence or continuance . . . b) to keep in a certain condition or position, esp. of efficiency, good repair, etc.; preserve . . ."

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Webster's New World Dictionary, Second College Edition, 1980,
page 854.

The language in Section 67.550.3 refers to the maintenance of the facilities and buildings constructed with revenues raised pursuant to that statute. The maintenance of those facilities and buildings would thus include any expenditures for the purposes of upkeep and to keep the facilities and buildings in a state of good repair.

It is the opinion of this office that the word "maintenance" in Section 67.550.3, RSMo Supp. 1989, includes expenditures for the purposes of upkeep and to keep the facilities and buildings in a state of good repair.

Very truly yours,



WILLIAM L. WEBSTER
Attorney General