

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

May 10, 2019

Mr. Herb Frierson
Commissioner, Department of Revenue
Post Office Box 22828
Jackson, MS 39225

Re: Senate Bill 3024 (Laws of 2019, Regular Session)

Dear Commissioner Frierson:

Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and response.

Issues Presented

You inquire as to whether the language contained in Senate Bill 3024 (Laws of 2019, Regular Session) authorizes the Mississippi Department of Revenue (Department) to purchase real property for warehouse expansion purposes. Specifically, you provide, in pertinent part, the following:

The Mississippi Department of Revenue is tasked with distributing alcoholic beverages to all retailers in the State. It uses facilities in Gluckstadt, Mississippi, known as the Liquor Distribution Center of the Alcoholic Beverage Warehouse, to hold liquor in bailment prior to distribution. The Department has determined that it will need additional capacity to store liquor due to increased demand and the proliferation of products. For several years, the Mississippi Department of Revenue has expressed a need to the Mississippi Legislature for funding to expand its warehousing capabilities.

On March 2, 2019, the Mississippi Legislature enrolled Senate Bill 3024. This bill contains appropriations for the Mississippi Department of Revenue. In particular, Section 15 of SB 3024 states:

Of the funds appropriated in Section 2, an amount less than Four Million Dollars (\$4,000,000.00) may be used for the

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purpose of purchasing additional warehouse space for the Department of Revenue warehousing needs.

Additional Information

In your request, you outline several different methods in which the Department's expansion of warehouse space may be accomplished. However, via teleconference with the Department's legal counsel, it was confirmed that the Department is only seeking an official opinion regarding its authority under Senate Bill 3024 (Laws of 2019, Regular Session) to purchase an existing warehouse.

Response

Due to the broad nature of the language contained in Senate Bill 3024 (Laws of 2019, Regular Session), the Department is authorized to purchase real property for warehouse expansion purposes.

Applicable Law and Discussion

In your request, you argue that the language in Senate Bill 3024 (Laws of 2019, Regular Session) is not ambiguous. We agree. It is clear that the Legislature intended to grant the Department the authority to purchase additional warehouse space. Furthermore, its use of the language "for the purpose of purchasing additional warehouse space for the Department of Revenue warehousing needs" suggests that it intended to give broad purchasing authority to the Department when it made reference to the needs of the Department. Such language indicates that the intent of the legislation was to grant the Department the discretion to determine what type of purchase would best fit its needs.¹ We note that said purchasing power clearly encompasses the purchase of a facility.

We have consistently opined that the rules of statutory construction need not be considered when the plain language of the statute is clear and unambiguous. MS AG Op., Bennett (December 2, 2003); MS AG Op., Hoffman (November 1, 1982)(opinion relied on court's rulings in *Mississippi Power Co., v. Jones*, Miss., 369 So.2d 1381 (1979) and *Forman v. Carter*, Miss., 269 So.2d 865 (1972)). In *Lawson v. Honeywell Intern, Inc.*, 75 So.3d 1024, 1027(2011), the Court provided the following:

The function of the Court is not to decide what a statute should provide, but to determine what it does provide. *Russell v. State*, 231 Miss. 176, 94 So.2d 916, 917 (1957). The Court must not broaden or restrict a legislative

¹Having said that, we are not of the opinion that the language contained in SB 3024 (2019) can be interpreted so broadly as to authorize the Department to construct a facility to meet its warehousing needs.

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act. *Barbour v. State ex rel. Hood*, 974 So.2d 232, 240 (Miss. 2008) (quoting *Miss. Dep't of Transp. v. Allred*, 928 So.2d 152, 156 (Miss. 2006)). The Court's goal is to give effect to the intent of the Legislature. *City of Natchez, Miss. v. Sullivan*, 612 So.2d 1087, 1089 (Miss. 1992). To determine legislative intent, the Court first looks to the language of the statute. *Pinkton v. State*, 481 So.2d 306, 309 (Miss.1985). If the words of a statute are clear and unambiguous, the Court applies the plain meaning of the statute and refrains from using principles of statutory construction. *Clark v. State ex rel. Miss. State Med. Ass'n*, 381 So.2d 1046, 1048 (Miss.1980); see also *Gilmer v. State*, 955 So.2d 829, 833 (Miss. 2007).

Considering the above, we are of the opinion that due to the broad nature of the language contained in Senate Bill 3024 (Laws of 2019, Regular Session), the Mississippi Department of Revenue is authorized to purchase real property for warehouse expansion purposes as outlined above.

If this office may be of further assistance, do not hesitate to contact us.

Sincerely,

OFFICIAL OPINION
JIM HOOD, ATTORNEY GENERAL

By:


Leigh Triche Janous
Special Assistant Attorney General