



Lynn Fitch
ATTORNEY GENERAL
OPINIONS

May 13, 2020

Robert P. Shepard, Esquire
Attorney for the George County Board of Supervisors
922 Manila Street
Lucedale, Mississippi 39452

Re: Authority of County to Refinance an Existing Loan with Refunding Bonds

Dear Mr. Shepard:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

Questions Presented

May George County (“the County”) issue refunding bonds pursuant to Miss. Code Ann. Sections 31-27-1, *et seq.* to refinance a portion of the County’s loan?

Whether the authority to issue the refunding bonds under Miss. Code Ann. Section 31-15-17 is so complete and absolute that the requirements and restrictions of the original authority, having met those requirements previously to issue debt, are relieved as the County seeks to refinance the debt?

If so, may the County request its levying authority to levy a tax pursuant to Miss. Code Ann. Section 31-15-11 to pay the principal of and interest on the refunding bonds as they seek to refinance the existing obligation?

If so, do the refunding bonds pledge the same source of security and the full, faith, credit and resources of the County?

Background Facts

The George County Board of Supervisors currently has a principal loan of \$3,302,586.00, bearing a stated interest rate of 1.75% and an effective interest rate of 2.3%, with the Community

Bank for improvements previously made to the George County Regional Hospital. The loan is secured with general obligation bonds issued pursuant to Miss. Code Ann. Section 19-9-1.

The Board would like to refinance the loan with proceeds from a \$2,000,000.00 loan offered through a program by Singing River Electric Cooperative wherein USDA funds would be provided at 0% interest and the remaining loan balance paid to Community Bank from the cash reserves of the Hospital. The refinancing would result in a savings to the County of approximately \$1,379,000.00 and reduce the life of the loan by three (3) years.

The Board is considering issuing refunding bonds pursuant to Miss. Code Ann. Sections 31-15-1 through 31-15-19 for the refinancing of \$2,000,000.00 of the Community Bank loan with the funds from the 0% interest USDA loan and the balance from cash reserves of the Hospital.

Brief Response

In response to your first question, the County may issue refunding bonds pursuant to Sections 31-27-1, *et seq.* to refinance the county's outstanding general obligation bonds previously issued pursuant to Section 19-9-1 for improvements made to the George County Regional Hospital.

In response to your second question, the County may issue refunding bonds if the County makes a factual determination that the proposed financial structure falls within the authority provided in Sections 31-15-1 through 31-15-19.

In response to your third question, Section 31-15-11 provides that the County shall annually levy a tax upon all taxable property sufficient to pay the principal of and interest on all refunding bonds issued pursuant to that section.

In response to your fourth question, Section 31-15-11 provides "the full faith, credit, and resources of such subdivision shall be and are hereby irrevocably pledged to the payment of such bonds, both as to principal and interest."

Applicable Law and Discussion

Miss. Code Ann. Section 31-27-17 states, "the governing body of a governmental unit may refinance outstanding bonds through the issuance of refunding bonds and the exchange of such refunding bonds for the bond to be refunded." Security for refunding bonds may be the same source of security as the bonds to be refunded or other such security as the governing body may lawfully pledge, or both. *See*, Miss. Code Ann. Section 31-27-11.

In response to your first question, we are of the opinion that the County may issue refunding bonds pursuant to Sections 31-27-1, *et seq.* to refinance the county's outstanding general obligation bonds previously issued pursuant to Section 19-9-1 for improvements made to the George County Regional Hospital. Whether the financing structure presented in your factual scenario meets the definition of a "refunding bond" in accordance with Sections 31-27-1, *et seq.* is a question of fact that must be made by the Board of Supervisors. We note that Miss. Code Ann. Section 31-27-13

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requires refunding bonds issued pursuant to the chapter to result in “an overall net present value savings to maturity of not less than two percent (2%) of the bonds being refunded.”

A county has the authority to issue general obligation bonds pursuant to Miss. Code Ann. Sections 31-15-1 through 31-15-19 (known as the General Refunding Law of 1934) for the purpose of refunding a previous bond indebtedness of the county that remains outstanding and levies a tax sufficient to pay the principal and interest on such bonds as it matures and accrues. In response to your second question, the County may issue the refunding bonds if the County makes a factual determination that the proposed financial structure falls within the authority provided in Sections 31-15-1 through 31-15-19. Sections 31-15-5(1) and 31-15-17 clearly provide an election or other conditions required by other bond issuance statutes are not required to proceed pursuant to Sections 31-15-1 through 31-15-19.

In response to your third question, Section 31-15-11 provides that the County shall annually levy a tax upon all taxable property sufficient to pay the principal of and interest on all refunding bonds issued pursuant to that section.

In response to your fourth question, Section 31-15-11 provides “the full faith, credit, and resources of such subdivision shall be and are hereby irrevocably pledged to the payment of such bonds, both as to principal and interest.”

If the County issues refunding bonds pursuant to Sections 31-27-1, *et seq.*, Miss. Code Ann. Section 31-27-11 provides that the refunding bonds “may be secured by a pledge of: (a) the same source of security as the bonds to be refunded, or (b) such other security as the governing body of the governmental unit may lawfully pledge, or both; all as may be provided by resolution of the governing body of the governmental unit.”

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

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Avery Mounger Lee*

Avery Mounger Lee
Special Assistant Attorney General