

Civil Rights Institute, funding

Number: INFORMAL

Date: December 17, 2003

The Honorable Anthony C. "Tony" Hill, Sr.
Senator, District 1
5600 New Kings Road, Suite 5
Jacksonville, Florida 32209

Dear Senator Hill:

You have contacted this office regarding the establishment of a Civil Rights Institute which you suggest should be located at the Bethune-Cookman College in Daytona Beach and named in the memory of Harry T. Moore. You ask whether it would be possible to use any penalties collected from discrimination cases handled by this office under Chapter 760, Florida Statutes, to fund the institute.

The newly enacted civil rights act, section 760.021, Florida Statutes, authorizes the Attorney General to commence a civil action for damages and civil penalties not to exceed \$10,000 per violation when the Attorney General has reasonable cause to believe that a person or group has engaged in a pattern or practice of discrimination as defined by state law or has been discriminated against and such discrimination raises an issue of great public interest. Section 760.51(2), Florida Statutes, provides that any person who interferes by threats, intimidation, or coercion, or attempts to interfere, with another person's exercise or enjoyment of rights secured by the constitution or laws of this state, is liable for a civil penalty of not more than \$10,000 per violation. The Attorney General is authorized to bring a civil or administrative action.

Based upon this office's review of the statutes, it appears that legislation would be required to direct such monies to fund the institute. For example, section 760.51(2), Florida Statutes, which authorizes the Attorney General to bring a civil or administrative action for violations of a person's constitutional rights, specifically states that a civil penalty in such action shall accrue to the state and shall be deposited as received into the General Revenue Fund. Moreover, state law requires all monies received by the state are to be deposited in the state treasury unless specifically provided otherwise by law,[1] and are subject to appropriation by the Legislature.[2] Currently, there is no provision for the use of such funds for such an institute.[3]

In considering legislation, however, you may wish to consider whether such a funding source would be sufficient for your purposes since the collection and amount of any penalties from discrimination cases handled by this office is variable and difficult to predict.

Thank you for considering this office as a source of assistance. If this office can be of assistance in the future, please let us know.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

[1] Section 215.32(1), Fla. Stat. *And see* s. 215.32(2)(a), Fla. Stat., stating that the General Revenue Fund shall consist of all moneys received by the state from every source whatsoever, except as provided in paragraphs (b) and (c) of the statute. *Cf.* s. 215.31, Fla. Stat., stating that revenue collected or received under the authority of the laws of the state by each and every state official, office, employee, bureau, division, board, commission, institution, agency, or undertaking of the state or the judicial branch shall be promptly deposited in the State Treasury.

[2] See Art. VII, s. 1(c), Fla. Const., stating that no money shall be drawn from the treasury except in pursuance of an appropriation made by law.

[3] In the past, certain settlement agreements in discrimination cases have been structured so that the defendants made a charitable contribution to a particular cause. Such contributions or donations have been to organizations specifically tailored to the discriminatory acts in each case. Such funding, however, was pursuant to a settlement agreement and not monies received by the state as penalties or fines.