

**STATE OF TENNESSEE  
OFFICE OF THE ATTORNEY GENERAL**

**December 12, 2022**

**Opinion No. 22-15**

**Seating Requirements for a “Municipal Stadium” Under Tenn. Code Ann. § 7-3-202**

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**Question 1**

Does Tenn. Code Ann. § 7-3-202, which authorizes the legislative body of a metropolitan government to levy a tax on the privilege of attending an event at a “municipal stadium” that is “constructed or improved after July 7, 1977, to contain seats for not less than thirty thousand (30,000) spectators,” require any or all the seats to be permanently affixed to the stadium?

**Opinion 1**

No, there is no requirement that any or all the seats be permanently affixed to the stadium. A structure that has 30,000 seats or more—whether all or some of those seats are permanently affixed—meets the definition of a “municipal stadium” for purposes of Tenn. Code Ann. § 7-3-202(a)(3), assuming it also satisfies all other applicable statutory requirements.

**Question 2**

Could a metropolitan government levy the privilege tax if a municipal stadium has 25,000 permanent seats and 5,000 temporary seats?

**Opinion 2**

Yes. Since there is no statutory requirement that all 30,000 seats be permanently affixed, a metropolitan government could levy the privilege tax if a municipal stadium has 25,000 permanent seats and 5,000 temporary seats.

**ANALYSIS**

Under Tenn. Code Ann. § 7-3-202, the legislative body of a metropolitan government is authorized to levy a tax on the privilege of attending an event at a “municipal stadium.” A “municipal stadium” is defined in relevant part as “a structure that is constructed or improved after July 7, 1977, to contain seats for not less than thirty thousand (30,000) spectators and that is used primarily for sporting events and other related activities . . . .” Tenn. Code Ann. § 7-3-202(a)(3) (emphasis added).

The primary rule of statutory construction is that the intention of the General Assembly must prevail. *Gragg v. Gragg*, 12 S.W.3d 412, 415 (Tenn. 2000); *Carson Creek Vacation Resorts, Inc. v. State, Dep't of Revenue*, 865 S.W.2d 1, 2 (Tenn. 1993). When the language of a statute is unambiguous, legislative intent is to be ascertained from the plain and ordinary meaning of the statutory language. *Carson Creek Vacation Resorts*, 865 S.W.2d at 2. The court's duty is to construe the statute as written. *Gleaves v. Checker Cab Transit Corp., Inc.*, 15 S.W.3d 799, 803 (Tenn. 2000); *Jackson v. Jackson*, 186 Tenn. 337, 342, 210 S.W.2d 332, 334 (1948). The court may not alter or amend the statute, *Town of Mount Carmel v. City of Kingsport*, 217 Tenn. 298, 306, 397 S.W.2d 379, 382 (1965), nor may it unduly restrict or expand the statute's coverage beyond its intended scope, *Worley v. Weigels, Inc.*, 919 S.W.2d 589, 593 (Tenn. 1996).

The statutory definition of a "municipal stadium" is plain and clear and unambiguous with respect to seating requirements: The statute requires only that the stadium "contain seats" for at least 30,000 spectators; it does not require that those 30,000 seats be permanently affixed to the stadium. Tenn. Code Ann. § 7-3-202(a)(3) (emphasis added). When the verb "contain" is used with an object, such as "seats," "contain" is generally understood to mean "have or hold (someone or something) within." *New Oxford American Dictionary* 374 (3d ed. 2010); see *State v. Clark*, 355 S.W.3d 590, 593 (Tenn. Crim. App. 2011) (a dictionary is the usual and accepted source for the "natural and ordinary meaning" of statutory language when the General Assembly has not otherwise defined a statutory term).

Thus, to qualify as a "municipal stadium" subject to the levy of the privilege tax, the stadium must be a structure that has or holds seats for not less than 30,000 spectators. Even if some or all of the seats in a stadium are moveable, as long as the stadium can seat at least 30,000 spectators at any given event, the stadium has or holds within it—i.e., contains—seats for 30,000 spectators.

Moreover, the intention of the General Assembly is to be derived from the words that it has used, not words that it has chosen not to include, *Voss v. Shelter Mut. Ins. Co.*, 958 S.W.2d 342, 345 (Tenn. Ct. App. 1997), and the General Assembly did not include any language that requires the seats to be permanently affixed. See Tenn. Code Ann. § 7-3-202(a)(3). Had the General Assembly intended to limit "municipal stadium" to include only structures with 30,000 *permanent* seats it would have done so explicitly. But the General Assembly did not do so, and courts decline to read language into a statute that the General Assembly did not place there. *Coleman v. State*, 341 S.W.3d 221, 240 (Tenn. 2011) (citation omitted). Reading into the statute a requirement that the 30,000 seats be permanently affixed would impermissibly alter or amend the statute by restricting its coverage beyond its intended scope—i.e., by limiting the definition of "municipal stadium" in a way that the legislature did not. See *Gleaves*, 15 S.W.3d at 803 (it is not for courts to alter or amend statute); *Loftin v. Langsdon*, 813 S.W.2d 475, 480 (Tenn. Ct. App. 1991) (unless "manifest injustice" would result, a court does not supply words to a statute that would limit the statute's meaning).

In sum, a structure that has 30,000 seats or more—whether all or some of those seats are permanently affixed to the structure—meets the definition of a “municipal stadium” for purposes of Tennessee Code Annotated § 7-3-202(a)(3), assuming it also satisfies all other applicable statutory requirements. And since there is no statutory requirement that all 30,000 seats be permanently affixed, a metropolitan government could levy the privilege tax if a municipal stadium has 25,000 permanent seats and 5,000 temporary seats.

JONATHAN SKRMETTI  
Attorney General and Reporter

ANDRÉE SOPHIA BLUMSTEIN  
Solicitor General

LAURA T. KIDWELL  
Assistant Solicitor General

Requested by:

The Honorable Jon Lundberg  
State Senator  
425 Rep. John Lewis Way N.  
Suite 744  
Nashville, Tennessee 37243