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STATE OF ALABAMA

OCT 26 1990

91-00039

Honorable Norma Beard
Mayor
P. O. Box 1096
Jackson, AL 36545

Water and Sewer Boards - Boards
of Directors

Under Code of Alabama 1975,
§ 11-50-234(a), board of
directors of Water Works and
Sewer Board of City of Jackson
may not exceed five members.

Dear Mayor Beard:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Can the Water Works and Sewer Board of the
City of Jackson be expanded from five to
seven members without the passage of special
legislation?

FACTS AND ANALYSIS

In ~~the~~ opinion request you state the following:

The Water Works and Sewer Board of the
City of Jackson was incorporated on
November 5, 1947, under Title 37, Sections
394 to 402, Code of Alabama 1940, with a
three-member board. On June 27, 1972, the
Board was expanded from three to five
members as permitted under Section 397 of
Title 37 of the 1940 Code.

The Water Works and Sewer Board has now recommended to the City Council that the Board be expanded from five to seven members. The City Council is in agreement with this change if it is permissible under the present language of the Code of Alabama 1975, as amended. The City of Jackson has a population of 6,071 per the 1980 census.

It appears to us that under Section 50-234(a) of Title 11 of the 1975 Code, we could only expand to seven members if we were under 5,000 persons in population.

At the outset we note that Title 37, § 394, et seq., of the 1940 Alabama Code is presently codified as Code of Alabama 1975, § 11-50-230, et seq.

Section 11-50-234(a) provides that the board of directors of waterworks and sewer boards formed under Article 8 of Title 11, Chapter 50, "shall consist of at least three members," and further provides that the governing body of any municipality which has authorized the creation of such a board "may, at its option, increase the board of directors from three to five members. . ."

As you note in your opinion request, § 11-50-234(b) provides that the governing body of a municipality having a population of 5,000 or less may increase the board of directors from five to seven members.

In light of the fact that you state that the population of the City of Jackson exceeds 5,000, it is the opinion of this office that § 11-50-234(a) would be controlling and under the provisions of that statute, the board of directors of the Water Works and Sewer Board of the City of Jackson may not exceed five members.

CONCLUSION

Under Code of Alabama 1975, § 11-50-234(a), the board of directors of the Water Works and Sewer Board of the City of Jackson may not exceed five members.

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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:


JEAN WILLIAMS BROWN
Assistant Attorney General

DS/JWB/jho

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