



2001-138

STATE OF ALABAMA
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March 30, 2001

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Honorable Stephen A. McMillan
Member, House of Representatives
Post Office Box 337
Bay Minette, AL 36507

Volunteer Fire Departments – Bylaws -
Dues

The requirements of membership and payment of dues are valid requirements for eligibility to vote on matters before a volunteer fire department if the bylaws require membership and payment of dues in order to vote.

Dear Representative McMillan:

This opinion of the Attorney General is issued in response to your request.

QUESTION ONE

Is the requirement of membership and payment of dues a valid requirement for eligibility to vote on matters before a volunteer fire department when the department receives public funds in the form of an ad valorem tax levy for fire protection?

FACTS AND ANALYSIS

The Lillian Volunteer Fire Department (“Department”) is incorporated under the provisions of the Alabama Nonprofit Corporation Act (“the Act”). *See* ALA. CODE § 10-3A-1, *et seq.* (1999). Section 10-3A-20(12) of the Code of Alabama authorizes a nonprofit corporation to make

and to alter bylaws for the administration and regulation of the affairs of the corporation as long as the bylaws are not inconsistent with its articles of incorporation or with state law. ALA. CODE § 10-3A-20(12) (1999). The Act provides that the right of members “to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws.” ALA. CODE § 10-3A-31 (1999).

The Department’s bylaws contain specific sections regarding voting and membership dues. Section Three of Article Four of the bylaws of the Lillian Volunteer Fire Department provides: “Voting Rights. Each household or business member shall be entitled to one vote on each matter submitted to a vote of the members so long as she or he is a member in good standing.” *Bylaws of the Lillian Volunteer Fire Department, Inc.*, Revised October 27, 1997.

Section Two of Article Four of the bylaws of the Lillian Volunteer Fire Department provides:

The annual fire operations donation for individuals or business membership will be in the amount specified by the Board of Directors from time to time. Solicitation of membership donation will be by letter, mailed to each residence or business not later than 1 September of each year. Membership dues are payable 1 September through 15 October. Failure to contribute by 15 October necessitates dropping the individual or business from the membership rolls of the department. Membership will be reinstated only upon payment of annual dues.

Bylaws of the Lillian Volunteer Fire Department, Inc., Revised October 27, 1997.

According to the Department’s bylaws, membership is required to vote on matters submitted to a vote of the Department. Based on the wording of the Department’s bylaws, it is the opinion of this Office that a person or business must pay membership dues in order to be a member of the Department and therefore to vote on Department matters. Although the Department receives public funds in the form of an ad valorem tax levy for fire protection, individuals or businesses must pay membership dues to vote on Department matters.

CONCLUSION

Because the bylaws so provide, the requirement of membership and payment of dues is a valid requirement for eligibility to vote on matters before a volunteer fire department.

QUESTION TWO

As used in Section Two of Article Four of the bylaws of the Lillian Volunteer Fire Department, do the words "dues" and "donation" carry the same meaning, particularly as the Alabama Nonprofit Corporation Act is concerned?

FACTS AND ANALYSIS

While Section Two of Article Four of the bylaws, quoted above, uses the terms "dues" and "donation" interchangeably, the words have different meanings. Black's Law Dictionary defines "dues" as "[a]s applied to club and other membership corporations, word refers to sums paid toward support of society and to retain membership." Black's Law Dictionary 590 (4th ed. 1968). It defines "donation" as "a gift." Black's Law Dictionary 504 (7th ed. 1999). While the Department is organized under the provisions of the Alabama Nonprofit Corporation Act, section 10-3A-1, *et seq.*, of the Code of Alabama, the Act does not define the terms "dues" and "donation." Based on the wording of the bylaws, it is the opinion of this Office that a person or business must pay dues in order to be a member of the Department.

CONCLUSION

A person or business must pay dues in order to be a member of the Department.

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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Terri Olive Tompkins of my staff.

Sincerely,

BILL PRYOR
Attorney General
By:


CAROL JEAN SMITH
Chief, Opinions Division

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