



2010-067

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Mark A. Rasco
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Recreation – Boards – Immunity –
Political Subdivisions – Talladega
County

The Coosa Valley Recreation Board (“Board”) is created pursuant to Act 2009-785. The Board qualifies as a governmental entity pursuant to section 6-5-336 of the Code of Alabama, and its members are immune from civil lawsuits based on this same statutory authority.

Dear Mr. Rasco:

This opinion of the Attorney General is issued in response to your request on behalf of the Coosa River Valley Recreation Board.

QUESTION

Is the Coosa Valley Recreation Board a political unit of the State of Alabama or a municipal board, and likewise, what type of governmental immunity does the Board itself and each individual member enjoy?

FACTS AND ANALYSIS

The Coosa River Valley Recreation Board was recently created by the Legislature pursuant to local act 2009-785. The Board is comprised of seven members. Appointments to the Board are made in the following manner: two members are appointed by the Talladega County Commission, two members are appointed by the City of Lincoln, two members are

appointed by the City of Talladega, and one member is appointed by the Talladega County Legislative Delegation. The act does not specifically state whether the Coosa Valley Recreation Board is a county or municipal authority, which is the basis of your particular inquiry.

Pursuant to section 11-47-19 of the Code of Alabama, any municipality is authorized to "establish, lay out [sic] and improve public grounds, parks, and boulevards and regulate the same." ALA. CODE § 11-47-19 (2008). Sections 11-47-210 through 11-47-239 of the Code of Alabama authorize a municipality, on its own or in conjunction with another municipality, to acquire, operate, manage, and control parks, playgrounds, and other recreational or athletic facilities. Sections 11-86-1 through 11-86-6 of the Code of Alabama authorize the creation of a recreational board by a county or any municipality with 100,000 people according to the most recent census.

The Coosa River Valley Recreation Board was not created pursuant to any of the statutory provisions cited above. The Board was created pursuant to a local act with members being appointed by the county, municipalities within the county, and the county legislative delegation. It is the opinion of this Office that the Coosa Valley Recreation Board is not a state, county, or municipal recreational board, but rather a newly created entity with authority emanating from Act 2009-785. See opinion to Honorable Charles R. Stephens, Attorney, Walker County Civil Service Board, dated November 1, 2005, A.G. No. 2006-012 (another example of a board that is not a state, county, or municipal board).

You also inquire as to the governmental and individual immunity enjoyed by the Board as a whole and the members individually. Because the act does not provide compensation for members of the Board, these people serve as volunteers. Section 6-5-336 of the Code of Alabama defines "volunteer" and discusses immunity from civil litigation as follows:

(c) For the purposes of this section, the meaning of the terms specified shall be as follows:

(1) GOVERNMENTAL ENTITY. Any county, municipality, township, school district, chartered unit, or subdivision, governmental unit, other special district, similar entity, or any association, authority, board, commission, division, office,

officer, task force, or other agency of any state;

....

(4) VOLUNTEER. A person performing services for a nonprofit organization, a nonprofit corporation, a hospital, or a governmental entity without compensation, other than reimbursement for actual expenses incurred. The term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(d) Any volunteer shall be immune from civil liability in any action on the basis of any act or omission of a volunteer resulting in damage or injury if:

(1) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for a nonprofit organization, a nonprofit corporation, hospital, or a governmental entity; and

(2) The damage or injury was not caused by willful or wanton misconduct by such volunteer.

ALA. CODE §6-5-336 (2005).

Although not a state, county, or municipal entity, the Coosa Valley Recreation Board fits within the broad definition of a governmental entity as used in section 6-5-336 of the Code of Alabama. Therefore, based upon the foregoing, it is the opinion of this Office that a person serving as a director on the Coosa Valley Recreation Board is immune from civil liabilities when acting in good faith within the scope of that Board's official authority.

CONCLUSION

The Coosa Valley Recreation Board is created pursuant to Act 2009-785. The Board qualifies as a governmental entity pursuant to

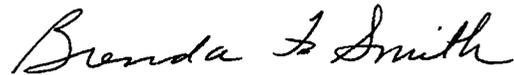
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section 6-5-336 of the Code of Alabama, and its members are immune from civil lawsuits based on this same statutory authority.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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