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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable J. T. "Jabo" Waggoner
Senate Minority Leader
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Birmingham-Jefferson Civic Center
Authority – Boards of Directors –
Appointments – Vacancies –
Jefferson County

A vacancy on the Board of Directors
of the Birmingham-Jefferson Civic
Center Authority (“Authority”)
should be filled by the members of
the Senate from Jefferson County
and by the members of the House of
Representatives from Jefferson
County on an alternating basis.

Dear Senator Waggoner:

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

QUESTION

How are vacancies that occur on the Board
of Directors of the Birmingham-Jefferson Civic
Center Authority to be filled under Act No. 547
of the 1965 Regular Session of the Alabama
Legislature, as amended?

FACTS AND ANALYSIS

Act No. 547 of the 1965 Regular Session of the Alabama
Legislature is the enabling legislation for the Birmingham-Jefferson Civic
Center Authority. 1965 Ala. Acts No. 547, 797. This Act has been
amended several times through the years. Section 4 of Act 547 provides

the manner in which board members are appointed to the Board of Directors of the Authority.

Section 4 of Act 547 was amended by Act No. 87-741 and it states as follows:

After March 1, 1986, the seven elected members of the Board of Directors shall no longer be elected by the Legislative Electoral College. After said date, whenever a Board member's term expires or his seat becomes vacant during a term, the incumbent *members of the state Senate from Jefferson County and House of Representatives from Jefferson County shall hereafter separately and alternatively elect successors to vacant directorships with the Senate members filling the first vacancy after such date and the House members filling the second vacancy after such date.* In case a directorship held by an elected Director becomes vacant during his or her term, the successor shall be elected by the Senate or House members, as the case may be, for the remainder of the term during which such vacancy occurred; provided, however, that if a person is elected to any vacant directorship during the last six months of any term of such directorship, he shall be deemed elected for the remainder of such term and for the next succeeding term of such directorship. *In the event a vacancy shall occur on the Board of Directors by resignation, death or expiration of a Board member's term, said vacancy shall be filled by the Legislative delegation, as set out above,* and if said legislative delegation fails for any reason to fill said vacancy within sixty (60) days from the date of the occurrence of said vacancy, the remaining members of the Board of Directors shall fill said vacancy.

1987 Ala. Acts No. 87-741, 1436 (emphasis added).

It is axiomatic that the plain language of a statute controls, except in those rare cases in which a literal application of the statute will produce results demonstrably at odds with the intention of the drafters. *U.S. v. Ron Pair Enter., Inc.*, 489 U.S. 235, 242 (1989).

Honorable J. T. "Jabo" Waggoner
Page 3

In this case, the plain language of the act provides that a vacancy on the board of directors of the Authority is to be filled by the members of the Senate from Jefferson County and by the members of the House of Representatives from Jefferson County on an alternating basis, with the Senate making the first appointment to a vacancy occurring after March 1, 1986. The first appointment to fill a vacancy on the board after March 1, 1986, was to be made by the Senate delegation and the next appointment was to be made by the House delegation. Any vacancy that occurs after that time should be filled on an alternating basis. If the Senate made the last appointment, then the House should make the next appointment. Accordingly, if two vacancies occur in the same year and the Senate made the last appointment, the House has the right to make one of the appointments and the Senate has the right to make the other appointment.

CONCLUSION

A vacancy on the Board of Directors of the Birmingham-Jefferson Civic Center Authority should be filled by the members of the Senate from Jefferson County and by the members of the House of Representatives from Jefferson County on an alternating basis.

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

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