



2012-034

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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February 8, 2012

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County Commissions – Sheriffs – Mutual
Aid Agreements – Law Enforcement – Fire
Protection

The North Chilton Volunteer Fire Department may respond to calls in a county adjacent to Chilton County if authorized by its bylaws and no funds received from the tax levied for fire, medical, and emergency services in Chilton County are used on such calls for equipment, materials, personnel compensation, or otherwise.

The sheriff may not provide law enforcement services in an adjacent county unless an agreement to provide reciprocal services has been entered into by both counties and is executed as provided for in sections 11-102-2 and 11-102-3 of the Code of Alabama. The sheriffs and county commissions of both counties must consent and be parties to the agreement.

Dear Mr. Jackson:

This opinion of the Attorney General is issued in response to your request on behalf of the Chilton County Commission.

QUESTION

In that the North Chilton Volunteer Fire Department receives all of its funding from Chilton County taxpayers, and the Sheriff's Department

receives all of its funding from Chilton County public funds, may either provide uncompensated fire protection and rescue services and law enforcement services to citizens of an adjacent county?

FACTS AND ANALYSIS

Your request states as follows:

The Chilton County Commission distributes county tax revenues collected under section 5 of the Local Amendments for Chilton County of the Recompiled Constitution of Alabama. The North Chilton Volunteer Fire Department ("North Chilton") is a nonprofit corporation that provides fire and rescue services for an established service area in the northern part of Chilton County. Part of its annual funding, but not all, comes from the aforementioned tax revenues.

Contiguous to the service area of North Chilton is a residential area in Bibb County and a small area in Shelby County. Both are best located to receive fire and rescue services from North Chilton, rather than units in their counties. North Chilton has responded to calls from the area in order to meet their moral obligation to provide services. Their attempt, however, to receive reimbursement, contractual compensation, or financial assistance from their counterpart in Bibb County (as of this date no similar attempt in Shelby County has been made) has been met with a negative response, although there has been no objection to the service being provided. In addition, the sheriff, for the same reason, has responded to law enforcement calls from the area. The sheriff has not sought reimbursement or financial assistance from either county.

This Office considered a similar issue in an opinion to Honorable Dave Thomas, Member, House of Representatives, dated October 22, 1998, A.G. No. 99-00019. That opinion considered whether a volunteer fire department located within the corporate limits of a municipality that received municipal funding was obligated to provide service in the municipal police jurisdiction. The *Thomas* opinion concluded that "a volunteer fire department's obligations are determined by its charter, or its bylaws." *Id.* at 2. Therefore, a department's

jurisdiction is ordinarily determined by its bylaws, which could include an adjacent county.

You correctly indicate, however, that there may also be funding limitations impacting a department's jurisdiction across county lines. Section 5 of the Local Amendments for Chilton County of the Recompiled Constitution of Alabama provides as follows:

The Chilton County Commission may levy and collect a special property tax, in addition to all other taxes heretofore provided by law, not exceeding four mills on each dollar's worth of taxable property outside the corporate limits of any incorporated municipality in the county, as assessed for state taxation during the preceding year; except that the special property tax shall not exceed two and one-half mills on property used for the generation of electric energy, including hydroelectric projects licensed by the Federal Energy Regulatory Commission, or any predecessor or successor agency. The proceeds of the special property ***tax shall be used exclusively*** for fire, medical, and emergency services ***in areas outside the incorporated municipalities of Chilton County. . . .***

The tax assessor of Chilton County shall assess the tax herein provided, and the tax collector of Chilton County shall collect the tax, in the same manner and method that other ad valorem taxes are collected. The proceeds of the tax shall be distributed to the Chilton County Commission to be distributed by the commission, in equal shares, to all of the rural fire departments in the county that have and maintain an Insurance Services Office (ISO) Public Protection Classification of 9 or lower and that protect areas outside the incorporated municipalities of Chilton County. Each department receiving proceeds from the tax shall maintain a separate account for the tax proceeds and shall furnish, at its own expense, an audit of the account to the Chilton County Commission yearly.

The tax shall be collected, starting the first month after approval by the qualified electors of Chilton County, and shall be levied in perpetuity. Qualified electors include only those who reside outside the incorporated municipalities of Chilton

County. The passage of this amendment shall render null and void Amendment No. 402 of the Constitution of Alabama of 1901, beginning on the first day of the first month after this amendment is approved by the qualified electors and proclaimed ratified.

ALA. CONST. LOCAL AMENDS., Chilton County § 6 (amend. 680) (emphasis added).

A plain reading of the language emphasized above would prohibit use of the funds provided for in this section only in the incorporated municipalities of Chilton County. Under this vein of thought, the funds could be used in any other area, i.e., the unincorporated areas of the county or in an adjacent county.

The fundamental rule of statutory construction is to ascertain and give effect to the intent of the Legislature in enacting the statute. *Ex parte Ala. Dep't of Mental Health & Mental Retardation*, 840 So. 2d 863, 867 (Ala. 2002). A literal interpretation of a statute that would defeat the purposes of the statute should not be adopted if another reasonable interpretation can be given to it. *Odum Lumber Co. v. S. States Iron Roofing Co.*, 36 Ala. App. 270, 272, 58 So. 2d 641, 643 (1951). Courts do not interpret provisions in isolation, but consider them in the context of the entire statutory scheme. *Siegelman v. Ala. Ass'n of School Boards*, 819 So. 2d 568, 582 (Ala. 2001).

The more reasonable construction is that the Legislature intended to limit the funds' use to Chilton County. This conclusion is supported by the fact that the amendment limited approval of the tax to the voters in the unincorporated areas of the county. Furthermore, the title of the act that proposed the amendment, Act 2000-370, clarifies that the purpose of the act is "to use the proceeds from the tax to provide fire, medical, and emergency services to unincorporated areas of *the county*." 2000 Ala. Acts No. 2000-370, 583, 583 (emphasis added). One can look to the title of an act as an aid to statutory construction. *Jordan v. Reliable Life Ins. Co.*, 589 So. 2d 699 (Ala. 1991). Accordingly, the North Chilton Volunteer Fire Department may respond to calls in a county adjacent to Chilton County if authorized by its bylaws and no funds received from the tax levied for fire, medical, and emergency services in Chilton County are used on such calls for equipment, materials, personnel compensation, or otherwise.

Regarding the authority of the sheriff to provide law enforcement services in an adjacent county, this Office recently addressed the sheriff's jurisdiction in the context of transporting prisoners. Opinion to Honorable Timothy B. McCool, Attorney for Pickens County Sheriff, dated January 20, 2012, A.G. No. 2012-026. That opinion stated as follows:

The sheriff, however, may not serve as a representative of another state to transport a prisoner to that state for trial because the sheriff's jurisdiction ordinarily ends at the county line. Opinion to Honorable Lorey Bogen, Councilmember, Town of Brantley, dated March 18, 2008, A.G. No. 2008-063. ***The Legislature has seen fit to extend the jurisdiction of the sheriff only to other counties in Alabama on a valid mutual aid agreement with another county or municipality under section 11-102-1 of the Code of Alabama.*** Opinion to Honorable Edmund M. Sexton, Sr., Sheriff, Tuscaloosa County Sheriff's Office, dated March 20, 2003, A.G. No. 2003-106.

McCool, at 3 (emphasis added).

This Office has explained the mutual aid process as follows:

“[P]ursuant to section 11-102-1, counties and municipalities in this state, as governmental entities, are authorized to enter into written contracts with other counties and municipalities for the joint exercise of powers and services.” Opinion to Honorable Edmund M. Sexton, Sr., Sheriff, Tuscaloosa County, dated March 20, 2003, A.G. No. 2003-106 at 3. The statute requires that each party already have general authority to provide the power or service that is the subject of the contract. Furthermore, “[a]ny agreement or contract between the county and the municipality must meet the specifications and approval requirements of sections 11-102-2 and 11-102-3 of the Code of Alabama.” Opinion to Honorable Barry D. Vaughn, Attorney, Talladega County Commission, dated July 21, 2004, A.G. No. 2004-182 at 3.

The *Vaughn* opinion addressed this issue in the context of a road crossing in and out of different jurisdictions, concluding that a county and city may enter into an agreement by which each will maintain roads in the jurisdiction of the other. *Id.*

Opinion to Honorable Mike Hill, Member, House of Representatives, dated September 4, 2008, A.G. No. 2008-125, at 2.

Moreover, this Office has specifically concluded that, under section 11-102-1, a county, with the consent of the sheriff and with the sheriff as a party,

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can contract with another office for the sheriff to provide law enforcement services across county lines. Opinion to Honorable Edmund M. Sexton, Sr., Tuscaloosa County Sheriff, dated March 20, 2003, A.G. No. 2003-106. Consistent with these opinions, the sheriff may not provide law enforcement services in an adjacent county unless an agreement to provide reciprocal services has been entered into by both counties and sheriffs and is executed as provided for in sections 11-102-2 and 11-102-3 of the Code of Alabama.

CONCLUSION

The North Chilton Volunteer Fire Department may respond to calls in a county adjacent to Chilton County if authorized by its bylaws and no funds received from the tax levied for fire, medical, and emergency services in Chilton County are used on such calls for equipment, materials, personnel compensation, or otherwise.

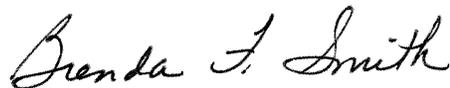
The sheriff may not provide law enforcement services in an adjacent county unless an agreement to provide reciprocal services has been entered into by both counties and is executed as provided for in sections 11-102-2 and 11-102-3 of the Code of Alabama. The sheriffs and county commissions of both counties must consent and be parties to the agreement.

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

Sincerely,

LUTHER STRANGE
Attorney General

By:



BRENDA F. SMITH
Chief, Opinions Division

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