



2012-038

STATE OF ALABAMA
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February 28, 2012

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Alabama Regional Communications System
110 East 15th Street
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Communications Districts – Liability –
Damages – Claims – Calhoun County

A radio/alert notification communications district created under section 11-31-1 of the Code of Alabama is a governmental entity with the protection of the liability caps for the recovery of damages for bodily injury, death, or damage to property found in section 11-93-2 of the Code of Alabama.

Dear Mr. Odom:

This opinion of the Attorney General is issued in response to your request on behalf of the Alabama Regional Communications System.

QUESTION

Do the provisions of section 11-93-2 of the Code, which establishes liability caps for “governmental entities,” apply to and protect the Alabama Regional Communications System?

FACTS AND ANALYSIS

Your request states as follows:

By separate resolutions, Calhoun County (July 28, 2011) and Talladega County (August 8, 2011)

approved the formation of a radio/alert notification communications district comprised of the territory wholly within the confines of Calhoun and Talladega counties. On September 1, 2011, . . . the appointed members of the district met and adopted the official name of the Alabama Regional Communications System.

The maximum amount of damages recoverable against governmental entities is provided for in section 11-93-2 of the Code as follows:

The recovery of damages under any judgment against a *governmental entity* shall be limited to \$100,000.00 for bodily injury or death for one person in any single occurrence. Recovery of damages under any judgment or judgments against a governmental entity shall be limited to \$300,000.00 in the aggregate where more than two persons have claims or judgments on account of bodily injury or death arising out of any single occurrence. Recovery of damages under any judgment against a governmental entity shall be limited to \$100,000.00 for damage or loss of property arising out of any single occurrence. No governmental entity shall settle or compromise any claim for bodily injury, death or property damage in excess of the amounts hereinabove set forth.

ALA. CODE § 11-93-2 (2008) (emphasis added).

A “qualifying entity,” for purposes of section 11-93-2, is defined as follows:

(1) GOVERNMENTAL ENTITY. Any incorporated municipality, any county, and any department, agency, board, or commission of any municipality or county, municipal or county public corporations, and any such instrumentality or instrumentalities acting jointly. “Governmental entity” shall also include county public school boards, municipal public school boards and city-county school boards when such boards do not operate as functions of the State of Alabama. “Governmental entity” shall also mean county or city hospital boards

when such boards are instrumentalities of the municipality or county or organized pursuant to authority from a municipality or county.

ALA. CODE § 11-93-1(1) (2008).

Radio/alert notification communications districts are created pursuant to section 11-31-1, *et seq.*, of the Code of Alabama. ALA. CODE § 11-31-1 to 11-31-4 (Supp. 2011). Section 11-31-1 provides as follows:

One or more counties, by resolution of the governing body, may establish a radio/alert notification communications district comprised of the territory wholly within the county or, in the case of more than one county, the respective counties. The radio/alert notification communications district shall be a public authority and shall be a political and legal subdivision of the state.

ALA. CODE § 11-31-1 (Supp. 2011). A district additionally has the power to “[s]ue and be sued.” ALA. CODE § 11-31-3(b)(3) (Supp. 2011).

The Alabama Supreme Court has considered virtually identical language in a statute authorizing the creation of local emergency management communications districts or E-911 boards. *Wassman v. Mobile County Communications Dist.*, 665 So. 2d 941 (Ala. 1995). The Court held that such a board is a governmental entity under section 11-93-1(1). Consistent with *Wassman*, the Alabama Regional Communications System has the protection of the liability caps for the recovery of damages for bodily injury, death, or damage to property.

CONCLUSION

A radio/alert notification communications district created under section 11-31-1 of the Code of Alabama is a governmental entity with the protection of the liability caps for the recovery of damages for bodily injury, death, or damage to property found in section 11-93-2 of the Code of Alabama.

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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:

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

BRENDA F. SMITH
Chief, Opinions Division

LS/GWB

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