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Honorable Jay Murrill
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Emergency Management Communications –
Districts – Counties – Contracts – Funds –
Salaries – Employees, Employers,
Employment

The Jefferson County E-911 Board
("Board") may enter into a contract with
the sheriff to provide emergency and
nonemergency dispatching services based
on such charges as are mutually agreed
upon by the parties.

The Board may use funds from the
statewide 911 charge for salary and
benefits of employees performing
emergency or nonemergency dispatching
services.

The Board may use funds paid by the
sheriff for operational costs other than
salary and benefits that are consistent with
the purposes set forth in chapter 98 of title
11 of the Code of Alabama.

Dear Mr. Murrill:

This opinion of the Attorney General is issued in response to your request
on behalf of the Jefferson County 9-1-1 Emergency Communications District.

QUESTIONS

(1) May the Jefferson County 9-1-1 Emergency
Communications District enter into a contract with the

Jefferson County Sheriff's Office to provide emergency and nonemergency dispatching services?

(2) If so, may the E-911 Board pay its employees who may perform such services exclusively from the funds received from the statewide 911 charges?

(3) If so, may the Board use the funds paid by the sheriff for operational costs other than employee salaries and benefits?

FACTS AND ANALYSIS

Emergency telephone service is provided for in this state through local emergency management communications districts, often referred to as E-911 boards, that are created pursuant to sections 11-98-1 through 11-98-15 of the Code of Alabama. ALA. CODE §§ 11-98-1 to 11-98-15 (2008 & Supp. 2013). The purpose of these sections is to provide a single primary three-digit number through which "emergency" services can be quickly and efficiently obtained. ALA. CODE § 11-98-3 (2008).

Act 2012-293 "substantially rewrote chapter 98 of title 11 of the Code. 2012 Ala. Acts No. 2012-293." Opinion to Honorable Jay Murrill, Attorney, The Jefferson County 911 Emergency Communications District, dated September 5, 2012, A.G. No. 2012-084, at 3. The act was passed to create "a single, statewide emergency service charge; . . . [and] a statewide 911 board . . . responsible for establishing and collecting; . . . [and] distribut[ing] the funds collected from the service charge to communications districts" *Id.* at 4, quoting preamble to 2012 Ala. Acts No. 2012-293.

This Office addressed the history of the law regarding contracting for dispatching services in an opinion to Honorable Franklin Boney, Chairman, Choctaw County E-911, dated October 27, 2009, A.G. No. 2010-006. "[O]pinions to Honorable Glenn A. Shedd, Attorney, DeKalb County E-911 Board of Directors, dated November 12, 1999, A.G. No. 2000-031 and to Honorable Steven A. Ballard, Administrator, DeKalb County Commission, dated November 12, 1999, A.G. No. 2000-032 . . . stated that E-911 boards are not authorized to enter into contracts with governmental entities to provide and charge for providing routine dispatching services." *Id.* at 2-3.

The *Boney* opinion elaborated as follows:

In response to the *Shedd* and *Ballard* opinions, in 2000, the Legislature enacted section 11-98-4(f)(6), adding to the powers of an E-911 board, and set out in

section 11-98-4 the power to “enter into contracts or agreements with public or private safety agencies *for dispatch services* when such terms, conditions, and charges are mutually agreed upon, unless otherwise provided by local law.” ALA. CODE § 11-98-4(f)(6) (2008)

Boney at 3 (emphasis in original).

The *Boney* opinion explained that this Office first addressed the statute in the context of emergency dispatching in an opinion to Honorable John E. Owens, Jr., Mayor, City of Greensboro, dated August 20, 2001, A.G. No. 2001-264. The *Owens* opinion concluded that the Board could charge for services “if it entered into a mutually agreed-upon contract.” *Id.* at 2. The *Boney* opinion extended this rule to routine dispatching. Accordingly, the Board may enter into a contract with the sheriff to provide emergency and nonemergency dispatching services based on such charges as are mutually agreed upon by the parties.

Regarding use of the funds received from the statewide 911 charge, Act 2012-293 amended section 11-98-6, moving section 11-98-5(i), which had governed use of the funds received from the service charges authorized under the old statutory scheme, to section 11-98-6(a). Furthermore, the act modified the language in subsection (a)(4) of section 11-98-6 and added the language in (a)(5) as follows:

(a) Funds received by a district pursuant to Section 11-98-5.2 shall be used to establish, operate, maintain, and replace an emergency communication system that, *without limitation, may consist of the following:*

(1) Telephone communications equipment to be used in answering, transferring, and dispatching public emergency telephone calls originated by persons within the service area who dial 911.

(2) Emergency radio communications equipment and facilities necessary to transmit and receive dispatch calls.

(3) The engineering, installation, and recurring costs necessary to implement, operate, and maintain an emergency communication system.

(4) Facilities to house E-911 operators *and related services* as defined in this chapter, with the approval of the creating authority, and for necessary emergency and uninterruptable power supplies for the systems.

(5) *Administrative and other costs related to subdivisions (1) to (4), inclusive.*

ALA. CODE § 11-98-6(a) (Supp. 2013) (emphasis added).

The prefatory language to the statute in section 11-98-6(a) emphasizes that the list of permissible uses for the funds that follows is not an exhaustive list. As discussed below, however, the instant costs are covered by the plain language of two of those designated uses, operating together.

Section 11-98-6(a)(3) authorizes use of these funds for “recurring costs necessary to implement, operate, and maintain an emergency communication system,” such as personnel salaries. That and the uses provided for in sections 11-98-6(a)(1), (2), and (4) limit the funds to the *emergency* communication system, i.e., for emergency purposes. Nonetheless, section 11-98-6(a)(5) states that the funds may be used for “costs *related to*” the uses in the preceding subsections.

Given that an emergency system is the only one that the Board is specifically authorized to operate throughout the E-911 board statutes, the grant of authority in section 11-98-4(f)(6) to engage in nonemergency dispatching implies the power to use that system to do so. Therefore, nonemergency dispatching costs relate to the permissible uses for the funds designated in sections 11-98-6(a)(1) through 11-98-6(a)(4). Because nonemergency dispatching costs may be equally applied to the uses identified in the statute, the Board may use funds from the statewide 911 charge for salary and benefits of employees performing emergency or nonemergency dispatching services.

Your final question is answered, as you correctly point out, by the express language of section 11-98-6(b) that “[a] district or county or municipal governing body may receive federal, state, county, or municipal real or personal property and funds, as well as real or personal property and funds from private sources, and may expend the funds or use the property for the purposes of this chapter.” ALA. CODE § 11-98-6(b) (Supp. 2013). Thus, the Board is free to use the funds from the contract with the sheriff for any costs that are consistent with the purposes set forth in chapter 98 of title 11 of the Code.

CONCLUSION

The Jefferson County E-911 Board may enter into a contract with the sheriff to provide emergency and nonemergency dispatching services based on such charges as are mutually agreed upon by the parties.

The Board may use funds from the statewide 911 charge for salary and benefits of employees performing emergency or nonemergency dispatching services.

The Board may use funds paid by the sheriff for operational costs other than salary and benefits that are consistent with the purposes set forth in chapter 98 of title 11 of the Code.

I hope this opinion answers your questions. 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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