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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Municipalities - Roads, Highways and
Bridges - Water and Sewer Boards -
Shelby County

There is no law that would prohibit a water
board from installing a water line across a
county road that contains a water line of an
adjoining municipality.

Dear Mr. Conwill:

This opinion of the Attorney General is issued in response to your request
on behalf of the Montevallo Water and Sewer Board.

QUESTION

Does Alabama law prohibit a water board from
installing a water line across a county road that con-
tains a water line of an adjoining municipality?

FACTS AND ANALYSIS

The Montevallo Water and Sewer Board has plans to install a water line
across a county road that already contains a water line of the City of Alabaster
so that, according to Montevallo, additional water service may be provided to
citizens of the City of Montevallo. Montevallo asserts that it is intended that
the water line cross under the existing line and neither touch nor interfere with
the water line presently located in the highway.

The Alabaster Water Board opposes the Montevallo Water Board's suggested water line and suggests that the new line will serve people who are included in Alabaster's "territorial service area." The Alabaster Water Board has provided this Office with a contract between the Montevallo Water Works and Sewer Board and the Alabaster Water Board dealing with the furnishing of water by the Alabaster Board to the Montevallo Board and has suggested that Montevallo may not be following its own policies and limitations. Whether the contract or Montevallo's policies and limitations create any legal obligations on the part of the Montevallo Water Works and Sewer Board to purchase water from the Alabaster Water Board for the purpose of serving those customers is not a question that is properly answered by this Office, but rather would be an issue that would need to be addressed by the courts. The Attorney General makes determinations of law and not of fact. ALA. CODE § 36-15-1(1)(a) & (b) (2001); Opinion to Honorable Casandra Horsley, Judge of Probate, Winston County, dated April 19, 1996, A.G. No. 96-00189; Opinion to Honorable Clarence F. Rhea, Attorney, City of Attalla, dated April 19, 1996, A.G. No. 96-00190. To answer your specific question of whether Alabama law prohibits a water board from installing a water line across a county road that contains a water line of an adjoining municipality, this Office finds no authority that would prevent this action.

Also, Alabaster has stated that the information provided by Montevallo is misleading; that Montevallo is in actuality duplicating Alabaster's water service, thus squandering public resources; and that Montevallo's proposed action may cause deterioration in the two Board's bond ratings, thus leading to higher costs. The concern of Alabaster that Montevallo's proposed actions may involve a duplication of services is legitimate, and Alabama law does not prohibit this.

Section 11-50-1.1 of the Code of Alabama is the only section that prohibits the duplication of water services. It states as follows:

Municipalities are hereby prohibited from acquiring, or duplicating any services of, any waterworks system or any part thereof, operated by a corporation or association which has been organized under Sections 10-4-190 through 10-4-194, Sections 11-88-1 through 11-88-21, Sections 11-88-40 through 11-88-111, or Sections 11-89-1 through 11-89-19, without the consent of a majority of the members of the governing board of said corporation or association.

The Alabaster Water Board, according to its attorney, was formed under sections 11-50-310 through 11-50-324 of the Code of Alabama. Section 11-50-1.1 is therefore not applicable. Alabaster admits that the statute above does not apply to it, but suggests that it is illogical for the Legislature to protect some boards but not others. This, however, is a matter for the Legislature to address. Courts look for the legislative intent in the language of the act; and, while that language may be explained, one cannot detract from it nor add to it. *Ala. Indus. Bank v. State ex rel. Avinger*, 237 So. 2d 108 (Ala. 1970); *May v. Head*, 96 So. 869 (Ala. 1923). Where a statutory pronouncement is distinct and unequivocal, there remains no room for judicial construction and the clearly expressed intent of the Legislature must be given effect. *Ex parte Holladay*, 466 So. 2d 956 (Ala. 1985); *Dumas Bros. Mfg. Co. v. Southern Guar. Ins. Co.*, 431 So. 2d 534 (Ala. 1983). The Legislature has seen fit to protect only certain water boards. This Office cannot change that legislation.

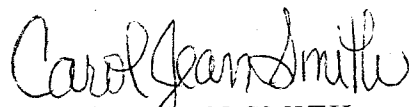
CONCLUSION

There is no law that would prohibit a water board from installing a water line across a county road that contains a water line of an adjoining municipality.

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

Sincerely,

TROY KING
Attorney General
By:


CAROL JEAN SMITH
Chief, Opinions Division