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STATE OF ALABAMA
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Emergency Telephone Service -
Emergency Management Communications -
District - County Commissions - Services
Charges

The E-911 Board of the Colbert County Communications District has the authority to increase the service charge of the district once a majority of the persons within the district has authorized a service charge. The county commission is involved in the increase of the service charge only if it has chosen to act as the E-911 Board.

The board referred to in section 11-98-5 of the Code of Alabama is the E-911 Board.

Dear Mr. Patton:

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

QUESTION 1

The E-911 Board previously appointed by the Colbert County Commission recently raised the emergency telephone service charge. Does the E-911 Board alone have the authority to raise the charge, or is the county commission required to be involved in changing the rates?

FACTS AND ANALYSIS

A county commission or municipal governing body, as the creating authority, creates a communication district ("E-911 district") within its respective jurisdiction by the passage of an ordinance or resolution in accordance with chapter 98 of title 11 of the Code of Alabama. ALA. CODE § 11-98-1(1) & 11-98-2 (Supp. 2004). Pursuant to section 11-98-4 of the Code, the county commission, as the creating authority, appoints a board of commissioners to govern the affairs of the communications district. ALA. CODE § 11-98-4 (Supp. 2004). Under section 11-98-4(e), in lieu of appointing a board of commissioners, the governing body of the county may serve as the board of commissioners and assume the powers and duties of that board. ALA. CODE § 11-98-4(e) (Supp. 2004).

Section 11-98-5 of the Code of Alabama provides, in pertinent part, as follows:

(a)(1) The board of commissioners of the district may, when so authorized by a vote of a majority of the persons voting within the district, in accordance with law, levy an emergency telephone service charge in an amount not to exceed five percent of the maximum tariff rate charged by any service supplier in the district, except that in counties with populations of less than 25,000 as determined by the most recent population census, the board of commissioners may, when so authorized by a vote of a majority of the persons voting within the district, in accordance with law, levy an emergency telephone service charge in an amount not to exceed two dollars (\$2). The governing body of the municipality or county may, upon its own initiative, call the special election.

(2) On and after January 1, 1992, the board of commissioners, once so authorized by a vote of majority of the persons voting in the district to levy an emergency telephone service charge, may implement any rate of the emergency telephone service charge permitted under this section, as it may be amended from time to time, without further authorization.

ALA. CODE § 11-98-5(a)(1) & (2) (Supp. 2004).

The Board of Commissioners or E-911 Board is given the authority in section 11-98-5(a)(2) to increase the service charge, subject to the limitations found within section 11-98-5(a)(1) of the Code, once the levying of a service charge has been approved by a majority of the voters in a district. Opinion of the Attorney General to Honorable Jack B. Weaver, Attorney, Monroe County E-911 Board of Commissioners, dated April 29, 1999, A.G. No. 99-00190. The county commission can vote to increase the service charge for a communications district only if the county commission has chosen to act as the board of commissioners for the communications district. *See* ALA. CODE § 11-98-4(e) (Supp. 2004). The county commission may, on its own initiative call, a special election for the voters of a communications district to approve the levying of the initial service charge as provided in section 11-98-5(a)(1).

CONCLUSION

The E-911 Board of the Colbert County Communications District has the authority to increase the service charge of the district once a majority of the persons within the district has authorized a service charge. The county commission is involved in the increase of the service charge only if it has chosen to act as the E-911 Board.

QUESTION 2

Is the Board of Commissioners discussed in section 11-98-5 the county commission, or is it the E-911 Board?

FACTS, ANALYSIS, AND CONCLUSION

According to section 11-98-4(a), when a communications district is created, the creating authority, a county commission or city governing body, appoints a board of commissioners to govern the affairs of the district. This board is commonly referred to as an E-911 Board. It is this E-911 Board that is the board of commissioners to which section 11-98-5 refers. The board referred to in section 11-98-5 is the county commission only when the county commission has elected to serve as the Board of Commissioners for the communications district as allowed by section 11-98-4(e).

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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

TROY KING
Attorney General
By:

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

BRENDA F. SMITH
Chief, Opinions Division

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