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Honorable Bobby E. Denton, State Senator
Alabama State Senate
2206 Lisa Avenue
Muscle Shoals, AL 35661-2673

Municipalities

Municipal utilities may charge increased water rates and the excess may be used to improve the municipality's sewer service, even if some of the residents paying the water charges will not benefit from the sewer system improvements.

Dear Senator Denton:

This opinion of the Attorney General is issued in response to your request.

QUESTION

In your letter of request, you asked:

Whether residents who live outside the corporate limits of a municipality, but who are served by its municipal water system, may be required by the municipal water system to pay increased water rates to help service the municipality's sewage bond issue when the residents are supplied water, but not sewer, services.

FACTS AND ANALYSIS

In Alabama, municipalities and their public utility boards have broad authority to set the rates charged for city services and to spend the funds generated, as they deem appropriate. Section 11-43-56 of the Code of Alabama provides that “the council shall have the management and control of the finances and all of the property, real and personal, belonging to the city or town.” ALA. CODE § 11-43-56 (1989). In Campbell v. Water Works & Sanitary Sewer Board of Montgomery, the Court considered the very question being raised today and concluded:

It is suggested by the appellant that charging water rates as required by the resolution is unreasonable, arbitrary and discriminatory because the surplus [generated] is to be used to finance the board’s sewer system and that there are residents of the city who will be required to pay water charges but who receive no service from the sewer system. . . . However, . . . since the board has the right to charge rates that will create a “surplus,” then it necessarily follows that the surplus which will not be needed for the maintenance of the water system can be used for other corporate purposes, such as the maintenance of its sewer system.”

115 So. 2d 519, 523 (Ala. 1959). As a note of caution, however, the Court has warned that “water rates imposed by a municipality must be reasonable and [are] subject to review in that regard upon complaint of a customer.” Water Works Board of Town of Parrish v. White, 202 So. 2d 721, 724, 725 (Ala. 1967).

CONCLUSION


Under the broad authority given to municipalities in Alabama, residents who live outside the corporate limits of a municipality, but who receive water supplied by the city or town, may be charged increased rates, even if the money generated from the increased rates will be used to provide sewer service from which some of the citizens on the water system will receive no benefit.

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

Sincerely,

BILL PRYOR
Attorney General
By:


CAROL JEAN SMITH
Chief, Opinions Division

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