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Opinion No. 09-23

Voting Power of Water and Wastewater Treatment Authority's Governing Body

QUESTION

What is the relative voting power of the five county-appointed members and seven municipal-appointed members of the Hamilton County Water and Wastewater Treatment Authority's governing body under the provisions of Tenn. Code Ann. § 68-221-605?

OPINION

It is the opinion of this Office that, in construing statutes, we are restricted to applying the plain meaning of the language used and, in this instance, the phrase "one fifth (1/5) of the population of the area of the entity" refers to the area of Hamilton County as a whole. Therefore, under this construction, the five county-appointed members of the Hamilton County Water and Wastewater Treatment Authority's governing body would each represent one fifth of the county's total population of 307,896 according to current census data.

ANALYSIS

The Hamilton County Water and Wastewater Treatment Authority was formed in accordance with the provisions of Tenn. Code Ann. §§ 68-221-601 to 68-221-618, known as the Water and Wastewater Treatment Authority (WWTA) Act. Water and wastewater treatment authorities are considered "agencies and instrumentalities of the creating and participating governmental entities" involved in their formation and operation. Tenn. Code Ann. § 68-221-602(a). The web site for the Hamilton County WWTA reflects that it is responsible for the public sewer system throughout the *unincorporated* areas of Hamilton County, as well as the surrounding incorporated municipalities of East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Signal Mountain, and Soddy Daisy. It is governed by a Board of Commissioners composed of five members appointed by the county mayor and a representative from each of the seven incorporated cities that joined in its formation. Tenn. Code Ann. § 68-221-605(a) and (b). The voting power of each member of the Board of Commissioners is set out in Tenn. Code Ann. § 68-221-605(b)(2), which provides as follows:

> The vote of each member of the board shall reflect *the population of the area of the governmental entity which the member represents*, with the five (5) members representing the creating governmental entity, each having a vote reflecting one fifth (1/5) of the population of the area of the entity.

(Emphasis supplied). You have inquired about the proportional voting power of each of the twelve members of the Hamilton County WWTA, given the statute's express reference to the voting power of the five members representing the "creating governmental entity."

Here, Hamilton County is the "creating governmental entity," although it appears, as a practical matter, that the WWTA's service area is limited to the unincorporated areas of the county, as well as the seven surrounding incorporated municipalities named above. But we believe the plain language of the statute controls. In construing statutes, courts generally look to the language of the statute itself, keeping in mind that the proper role of the court is "to ascertain and give effect to the legislative intent without unduly restricting or expanding a statute's coverage beyond its intended scope." *Curtis v. G.E. Capital-Modular Space*, 155 S.W.3d 877, 881 (Tenn. 2005), quoting *Owens v. State*, 908 S.W.2d 923, 926 (Tenn. 1995). Thus, we are obliged to apply the natural and ordinary meaning of the language used and, in this instance, we find that the phrase "one fifth (1/5) of the population of the area of the entity" refers to the area of Hamilton County as a whole. According to the most current census data for 2000, Hamilton County has a total population of 307,896, which would effectively mean that the five county-appointed members each represent one fifth of that total, or approximately 61,579. The seven municipal-appointed members of the WWTA would each represent the populations in their respective municipalities, according to current population data provided in the 2007 Supplement to the Tables in Volume 13 of the Tennessee Code Annotated.

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