

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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February 22, 2008

Opinion No. 08-35

Effect of Statute Requiring Maintenance of Sanitary Sewer Connections

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**QUESTION**

Do the provisions of Tenn. Code Ann. § 68-221-209(b)(1), requiring maintenance of sanitary sewer connections, apply only to the Hamilton County Water and Wastewater Treatment Authority and, if so, does the statute therefore contravene general laws having mandatory statewide application and/or lack a rational basis in violation of Article XI, Section 8 of the Tennessee Constitution?

**OPINION**

No. The provisions of Tenn. Code Ann. § 68-221-209(b)(1) apply generally to any water and wastewater treatment authority created in accordance with Tenn. Code Ann. §§ 68-221-601 to 68-221-618 that also meets the criteria in Tenn. Code Ann. § 68-221-209(b)(1)(A) and (B). It is the understanding of this Office that there are several municipal and county water and wastewater treatment authorities to which the requirements in Tenn. Code Ann. § 68-221-209(b)(1) apply.

**ANALYSIS**

The laws governing the construction and maintenance of public sewage treatment works are found at Tenn. Code Ann. §§ 68-221-201 to 68-221-214. This request seeks an opinion regarding the application of Tenn. Code Ann. § 68-221-209(b)(1), and particularly whether its provisions concerning maintenance of sanitary sewer connections apply only to the Hamilton County Water and Wastewater Treatment Authority. Tenn. Code Ann. § 68-221-209(b)(1) provides:

(b)(1) If a water and wastewater treatment authority, created pursuant to part 6 of this chapter:

(A) Owns a sanitary sewer funded in whole or in part through a grant obtained under this part; and

(B) Installed the sanitary sewer, contracted with an entity to install the sanitary sewer, or such sanitary sewer was conveyed to the authority after installation;

then such authority is responsible for maintaining the sanitary sewer and building service, including couplings and fittings thereto, to which the building lateral sewer of the residential or commercial customer is connected. In no event shall a residential or commercial customer be responsible for maintaining that portion of any lateral or connection that is located beyond the property line of such customer.

The obligation for maintaining sewer lines beyond the property line of a customer, then, applies to any water and wastewater treatment authority created in accordance with Tenn. Code Ann. §§ 68-221-601 to 68-221-618 that also meets the criteria in Tenn. Code Ann. § 68-221-209(b)(1)(A) and (B) above.

The provisions for maintaining sewer line connections in Tenn. Code Ann. § 68-221-209(b)(1) were added to the statute in 1999.<sup>1</sup> According to the Tennessee Department of Environment and Conservation, which regulates these entities, this legislation applies to a number of existing water and wastewater treatment authorities in Tennessee, and not just the Hamilton County Water and Wastewater Treatment Authority.

It is the opinion of this Office, therefore, that the provisions in Tenn. Code Ann. § 68-221-209(b)(1), requiring maintenance of sanitary sewer connections, constitute a general law of statewide application and a uniform policy on the maintenance of public sewage treatment works. This conclusion obviates the necessity for a constitutional analysis of Tenn. Code Ann. § 68-221-209(b)(1) as impermissible class legislation under Article XI, Section 8 of the Tennessee Constitution.

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Attorney General and Reporter

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<sup>1</sup>We are aware that the 1999 amendment also added a population bracket exemption in Tenn. Code Ann. § 68-221-209(b)(4), but that population bracket has no application to this request, because Hamilton County and the other counties we refer to fall outside the exemption.

Solicitor General

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