

Opinion No. 2014-005

January 27, 2014

Mr. Dan R. Bowers
Bowers Law Firm
Post Office Box 1797
Harrison, Arkansas 72602-1797

Dear Mr. Bowers:

This is in response to your request for my review and approval of the “Amendment to Resolution of the Carroll-Boone Water District” dated October 17, 2013 (“Amendment”). Your request is made pursuant to the Interlocal Cooperation Act, specifically, A.C.A. § 25-20-104(f) (Supp. 2013).¹

You have provided a copy of the original March 4, 1976 “Resolution,” under which the Boone County and Carroll County Water Districts resolved and agreed to form the Carroll-Boone Water District to pursue a joint or cooperative undertaking. My office was unable to locate a record of the original Resolution, but you have provided a copy of correspondence dated July 6, 1976, which states that the 1976 Resolution was in fact submitted to the Arkansas Attorney General but was not acted upon within sixty days. I will therefore assume the original Resolution was approved by operation of law.²

¹ You also submitted the Amendment to the Arkansas Natural Resources Commission pursuant to A.C.A. § 25-20-106(a) (Repl. 2002), which requires approval by “the state officer or agency having the power of control” when an agreement deals with “the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control....” The Commission has issued its approval.

² A.C.A. § 25-20-104(f)(3) (“Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.”). I will nevertheless note in this regard that the original Resolution appears to fall squarely within A.C.A. § 14-116-106(b) (Repl. 1998), which specifically authorizes regional water distribution districts to “enter into an agreement or agreements for the joint or cooperative exercise of any power or authority or for the undertaking of any project which a single water district ... could exercise or undertake.” *See also* A.C.A. § 25-20-103(1) (Repl. 2002) (part of the Interlocal Cooperation Act, defining “public agency,” for purposes of the joint or cooperative action authorized

The Regional Water Distribution District Act specifically authorizes agreements of this sort,³ and further requires that such agreements be entered in accordance with the Interlocal Cooperation Act.⁴ The Interlocal Cooperation Act does not expressly address the matter of an agreement's amendment.⁵ But I note that the original Resolution in this case, in paragraph 11, provides for amendment by three-fourths vote of the joint board. I have no information regarding the board's vote; but assuming this was the applicable vote requirement and that the board so voted, it is my conclusion that the Amendment is in proper form and compatible with the laws of this state. It is therefore hereby approved.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:EAW/cyh

cc: Crystal Phelps, General Counsel
Arkansas Natural Resources Commission

therein, to include "water districts created under the provisions of the Regional Water Distribution Act, A.C.A. § 14-116-101 et seq.").

³ See n. 2, *supra*.

⁴ A.C.A. § 14-116-106(c).

⁵ See Op. Att'y Gen. Nos. 2009-078; 2005-213.