

Subject

FILE
*Health, Public - Meas.
- Supp. - Pollution*

Copy to

General



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

June 4, 1974

Opinion No. 74- 179

Melville W. Gray
Chief Engineer and Director
Division of Environmental Health
Kansas State Department of Health
Topeka, Kansas

Re: Contracts between cities and
counties for the disposal of solid
waste

Dear Mr. Gray:

You inquire whether contracts between cities and counties for the disposal of solid waste, as authorized by K.S.A. 1973 Supp. 65-3410(c) must receive the approval of this office pursuant to K.S.A. 12-2904. We believe that that approval is required.

You also inquire whether the draft agreement which you enclosed is adequate to meet the requirements of K.S.A. 12-2904. We believe that the draft agreement should be revised to include the following points:

1. The recordation of the agreement should be in the Office of the Register of Deeds, not that of the County Clerk, and with the Secretary of State. K.S.A. 12-2905.

2. A space should be provided for the approval of the Attorney General. The words above the signature box should read "approved pursuant to K.S.A. 12-2904". K.S.A. 12-2904. The Attorney General's signature will, of course, be affixed after the signatures of all other officials except those of the Register of Deeds and Secretary of State.

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3. Space should be provided for the notation by the Register of Deeds and Secretary of State of their respective times and dates of filing.

4. Participants in these agreements should be advised that

- a. In the case of a city an ordinance must be passed authorizing the mayor to sign it.
- b. In the case of the county a resolution must be passed authorizing the chairman of the county commission to sign. Moreover it is helpful to have ordinance or resolution numbers under the signature areas.

5. I presume that the city is entering into this agreement because it has elected, pursuant to K.S.A. 65-3405(b), to exclude itself from the county plan. If this is the case then that fact should be mentioned in the agreement as a separate "whereas" clause.

6. If a city has so elected to be excluded from the county plan then it is not within the county's service area and the county would be prohibited under the 1974 amendments to K.S.A. 65-3410, in assessing charges against residents of the city. Accordingly, the second sentence in Article 6 of the draft agreement should be deleted and the Article clarified to reflect this fact.

7. Approval should be obtained from the Kansas State Department of Health and noted on the contract pursuant to K.S.A. 12-2906.

Very truly yours,



VERN MILLER
Attorney General

VM:WHW:pw