

FILE

Subject

*Miss. Lands  
Federal Jurisdiction*

Copy to



STATE OF KANSAS

*Office of the Attorney General*

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

VERN MILLER  
Attorney General

November 4, 1974

Opinion No. 74-357

Mr. J. F. Soest  
Chief Attorney  
Veterans' Administration Center  
5500 East Kellogg  
Wichita, Kansas 67218

Dear Mr. Soest:

You have written this office requesting our opinion as to what procedure should be followed by the Administrator of Veterans' Affairs in retroceding partial legislative jurisdiction over lands currently under his supervision to the state of Kansas.

Jurisdiction acquired by congress may be relinquished by it and receded to the state in whole or in part by the enactment of congressional legislation. Renner v. Bennett, 21 Ohio St. 431 (1871); Arapajolu v. McMnamin, 249 P.2d 318 (1952). 38 U.S.C.A. §5007 (Supp., 1974) is such congressional legislation as is required. Title 38 U.S.C.A. §5007 (Supp., 1974) provides:

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other

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manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State."

There is no Kansas law delineating a procedure for initiating the receding of federal jurisdiction to the state. Therefore it would appear that compliance with the method prescribed in 38 U.S.C.A. §5007 (Supp., 1974) would suffice, that is, "Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, . . ." [Emphasis supplied]. When the administrator desires to initiate the retrocession process, written notification to the Governor of the state of Kansas will be in order.

There is no Kansas law prescribing a procedure for acceptance by the state of partial legislative jurisdiction which has been retroceded to the state by the federal government. Ordinarily none would be needed. The case of Renner v. Bennett, supra, is authority for the rule that acceptance of the act of retrocession is unnecessary.

In view of the statutory language contained in 38 U.S.C.A. §5007 (Supp., 1974), ". . . and shall take effect upon acceptance by such state . . ." acceptance by the state is a requisite in this situation. Kansas law is silent as to the manner in which retrocession of jurisdiction from the federal government may be accepted. K.S.A. 75-107 provides:

"The governor shall transact all the business of the state, civil and military, with the general government, except in cases otherwise specially provided by law."

There being no other provision of law dealing with acceptance of jurisdiction, it is our opinion that the Governor of the state is authorized to accept such retrocession of jurisdiction.

We hope this information will be useful to you.

Very truly yours,



VERN MILLER  
Attorney General