



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

July 10, 1975

ATTORNEY GENERAL OPINION NO. 75-283

Mr. Michael F. McCurdy
Crawford County Attorney
Crawford County Courthouse
Fourth and Pine
Pittsburg, Kansas 66762

Re: Counties--Fire Districts

Synopsis: The board of trustees of fire districts organized under K.S.A. 19-3601 et seq. may not appoint persons other than the county clerk and county treasurer to serve as secretary and treasurer, respectively, of said districts.

* * *

Dear Mr. McCurdy:

K.S.A. 19-3601 et seq. provides for the organization of fire districts in counties of the state. K.S.A. 19-3601 provides in pertinent part thus:

"The board of county commissioners of the county shall be and constitute the governing body of each fire district within the county The county clerk of the county shall be the secretary of said board as the governing body of each of said fire districts and shall have such other duties as county clerk as provided by this act. The county clerk shall receive and have custody of all of the funds of each fire district and shall expend the same upon the order of the governing body of each such district as provided by law."

Mr. Michael F. McCurdy

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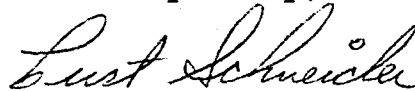
The board of county commissioners may, however, vest its powers respecting the fire district in a fire district board of trustees. K.S.A. 19-3612a states in pertinent part thus:

"Whenever a fire district has been established . . . , and the county commissioners determine, by resolution, that it is in the best interests of the county to place the supervision of such fire district under a fire district board of trustees, the said commissioners may appoint a board [of trustees] The board so established may be vested with all of the powers theretofore vested in the county commissioners, or such supervisory powers as the commissioners may, by resolution, delegate, and the board so appointed may exercise all powers so delegated."

You inquire whether a board of trustees appointed by the board of county commissioners to supervise a fire district organized hereunder may appoint persons other than the county treasurer and county clerk to act as treasurer and secretary, respectively to the fire district. In our opinion, it may not. Although the board of trustees "may be vested with all of the powers theretofore vested in the county commissioners" under K.S.A. 19-3602, those powers do not themselves include the power to appoint any persons other than the county treasurer and county clerk to serve as treasurer and secretary of the fire district. The board of county commissioners having no such power, it could not, of course, pass by delegation to the supervising board of trustees.

Secondly, you inquire whether, in view of the inadequate sources of financing available to begin and equip the district, it may borrow money from banks or the FEA, and whether it may acquire equipment under lease-purchase agreements. It may not, under prohibitions imposed by the cash-basis law. K.S.A. 1974 Supp. 10-1011 et seq.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj