



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

October 21, 1975

ATTORNEY GENERAL OPINION NO. 75- 400

Mr. Jack N. Turner  
Sedgwick County Counselor  
Sedgwick County Courthouse  
525 North Main  
Wichita, Kansas 67203

Re: Counties--Fire District--Petitions

Synopsis: A petition for inclusion of a part of an existing fire district in a fire district organized under K.S.A. 19-3601 *et seq.*, which petition is filed pursuant to K.S.A. 19-3611, should be signed by fifty-one percent (51%) of the residents of such adjacent fire district residing within the part of said adjacent fire district which is proposed to be included in the existing county fire district.

\* \* \*

Dear Mr. Turner:

You advise that the Sedgwick County Board of County Commissioners has recently received a petition by the owners of a section of land located within a township in Sedgwick County, requesting that they be included in Sedgwick County Fire District No. 1, which is organized and existing under K.S.A. 19-3601 *et seq.* The signers of the petition, or some of them, reside within an adjacent fire protection district or other special fire protection district heretofore organized and existing under state law. The number of signers residing within such adjacent district comprises less than 51% of the number of residents of the entire adjacent district, but more than 51% of those residents of the adjacent district who reside within the territory of the adjacent district which is proposed to be added to Sedgwick County Fire District No. 1.

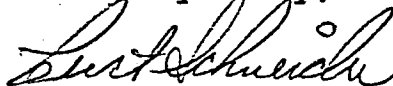
Mr. Jack N. Turner  
Page Two  
October 21, 1975

K.S.A. 19-3611 provides in pertinent part thus:

"Any fire protection benefit district or other special fire district heretofore or hereafter existing by virtue of law, may, in whole or in part, be included in or be made a part of any fire district organized or altered by provisions of this act: *Provided*, No such district or part of such district shall be included in any district so organized or altered unless and until a petition is filed with the board of county commissioners signed by *not less than fifty-one percent (51%) of the residents within the limits of the district to be included*, and governing body of the fire district to be included shall determine the sufficiency of such petition." [Emphasis supplied.]

The statute explicitly contemplates that all or part of an existing district may be included in a fire district organized under K.S.A. 19-3601. The phrase "fifty-one percent (51%) of the residents within the limits of the district to be included," should be construed accordingly, in my judgment, to refer to fifty-one percent of those residents of the adjacent district who reside within that part of the adjacent district proposed to be included in the county fire district, and not to fifty-one percent (51%) of all residents of the adjacent district in its entirety.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj