



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 2, 1976

ATTORNEY GENERAL OPINION NO. 76-275

Mr. Larry D. Ehrlich
Russell County Attorney
Russell County Courthouse
Russell, Kansas 67665

Re: Counties--Fire Districts--Organization

Synopsis: A fire district may not be organized by a resolution of the board of county commissioners under K.S.A. 19-3601 *et seq.* in any year after July 1 thereof.

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Dear Mr. Ehrlich:

You advise that property owners of Plymouth Township of Russell County have petitioned the board of county commissioners for the organization of a fire district comprising the territory of the township. K.S.A. 19-3606 states in pertinent part thus:

"No fire district shall be organized in any county, or the boundaries thereof altered, in any year after the first day of July and in every such case it shall be the duty of the board of county commissioners at the time of the making of the annual county budget to include therein showing the proposed tax requirements and expenditures of all fire districts in the county."

You advise that petitioners of the township have urged the board of county commissioners to take up the petition and adopt a resolution organizing the district. The acquisition of equipment and

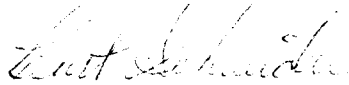
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organization of personnel may take considerable time, it is anticipated, and the board would like to establish the district as soon as possible in order to expedite its operation.

Unfortunately, under K.S.A. 19-3606, as quoted above, the board is powerless to establish the fire district between July 1 and December 31 of any year. The July 1 date was doubtless adopted to assure adequate time for adoption of a budget for the fire district and levy of taxes therefor. While the same purpose might have been accomplished by a less restrictive provision, *e.g.*, a prohibition against the levy of taxes in any taxable year for any district organized after July 1 thereof, the legislature chose to impose an absolute prohibition against the organization of fire districts under this act in the latter half of any year. The legislature made no exceptions, and there is no basis for interposing one by construction or interpretation.

Accordingly, in my judgment, the board of county commissioners may not adopt a resolution establishing a fire district under K.S.A. 19-3601 *et seq.* in any year after July 1 thereof.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj