



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 1, 1977

ATTORNEY GENERAL OPINION NO. 77-67

The Honorable Robin D. Leach
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Counties--Police Protection--Interlocal Agreements

Synopsis: A Kansas county may contract through its board of county commissioners with the Secretary of the Army for increased police protection services in and around federal reservoirs within their jurisdiction. The board of county commissioners is the proper party to such contracts except in counties such as Riley County, which has a consolidated law enforcement department, in which instance, the board governing that agency is the proper party to such an agreement.

* * *

Dear Representative Leach:

You advise that on October 22, 1976, Congress passed Public Law 94-587, which authorizes the Secretary of the Army through the Corps of Engineers to assist local units of government in providing increased law enforcement services at federal reservoirs. The Corps of Engineers is not preparing to contact local officials to develop a contract, in the implementation of this law. Before proceeding, the question is raised concerning the appropriate local authority to enter into such a contract.

The Kansas Interlocal Cooperation Act is found at K.S.A. 12-2901 et seq. Its purpose is stated in K.S.A. 12-2901 thus:

The Honorable Robin D. Leach
Page Two
March 1, 1977

"It is the purpose of this act to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities, persons, associations and corporations on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

K.S.A. 12-2904(a) states thus:

"Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state relating to . . . police protection . . . may be exercised and enjoyed jointly with any other public agency of this state or with any private agency, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment."

The term "public agency" is defined broadly in K.S.A. 12-2903(b), to include counties and agencies of the United States.

Action to enter into such an agreement must be taken under K.S.A. 12-2904(b) by the governing bodies of the participating public agencies. If the county is a party to the agreement, the agreement must be executed by the county board of county commissioners. The sheriff is not a governing body, and thus not a proper party to the agreement. In a county in which a consolidated law enforcement department has been established, such as Riley County, the board of county commissioners is not the governing body of that department. The county law enforcement agency created by K.S.A. 19-4427 is governed by the board provided for by that section, and it is empowered by K.S.A. 19-4429 to enter into contracts of the kind contemplated here. Thus, in Riley County, the county law enforcement agency would be the proper party to such a contract.

The Honorable Robin D. Leach
Page Three
March 1, 1977

There is no prohibition in Kansas law which would prevent local governmental officials from contracting with the Secretary of the Army, acting by and through the Corps of Engineers or otherwise, for increased law enforcement services.

If further questions arise concerning this matter, please feel free to contact me.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. James Buchele
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