

STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

May 11, 1977

ATTORNEY GENERAL OPINION NO. 77-156

Mr. David W. Hughes
Assistant District Attorney
Office of District Attorney
Johnson County Courthouse
Post Office Box 728, 6th Floor Tower
Olathe, Kansas 66061

Re: Emergency Preparedness for Disasters--Interjurisdictional Disaster Agencies--Authority to Establish

Synopsis: The governor is the only individual in state or local government authorized pursuant to K.S.A. 48-930 to order the establishment of interjurisdictional disaster agencies.

* * *

Dear Mr. Hughes:

You inquire whether the provisions of K.S.A. 48-930, particularly subsection (b) thereof, authorize counties to establish on their own initiative "interjurisdictional disaster agencies" to plan for, prevent or respond to disasters.

K.S.A. 48-930 provides in pertinent part as follows:

"(a) If the governor finds that two or more adjoining counties would be served better by an interjurisdictional disaster agency than by maintaining separate disaster agencies and services, he or she shall order the establishment of an interjurisdictional disaster

Mr. David W. Hughes

Page Two

May 11, 1977

agency which is adequate to plan for, prevent or respond to disasters in that area and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship and an interjurisdictional disaster emergency plan which provide for mutual aid or an area organization for emergency preparedness. A copy of such order shall be given to the chairman of the board of county commissioners of each county affected by such order and to the mayor or other principal executive officer of each city located within any such county, and such counties and cities shall act in accordance with such order. . . .

(b) Two or more counties, which are not under the jurisdiction of an interjurisdictional disaster agency pursuant to subsection (a), may be required by the governor, by an order issued in the manner prescribed in subsection (a), to participate and enter into an interjurisdictional agreement or arrangement without requiring the establishment and maintenance of such a disaster agency therefor, if the governor finds that:

(1) Such counties, or the cities situated therein, have equipment, supplies and forces which are necessary to provide mutual aid on a regional basis; and

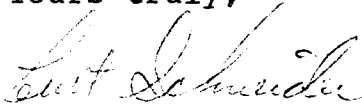
(2) such counties have not made adequate provisions in their disaster emergency plans for the rendering and receipt of mutual aid for the emergency preparedness needs of the entire region."

The above language is clear and unambiguous. The governor under subsection (a) shall order the establishment of interjurisdictional disaster agencies when he finds two or more counties would be better served than if they maintained separate disaster services and agencies. And under subsection (b) the governor may require counties to participate and enter into an interjurisdictional agreement or arrangement for the establishment and maintenance of an interjurisdictional disaster agency if he finds conditions exist as specifically enumerated therein. Nowhere do we find language in this statute, either express or implied, which permits a county to establish and maintain on its own initiative such an emergency preparedness agency.

Mr. David W. Hughes
Page Three
May 11, 1977

Accordingly it is the opinion of this office that the intent of the statute clearly is to grant only the governor the discretion and authority to order the creation of interjurisdictional disaster agencies.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj