



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 11, 1977

ATTORNEY GENERAL OPINION NO. 77- 332

Mr. John F. Jorgensen
Dresie, Jorgensen, Wood & Euson
433 North Broadway
Wichita, Kansas 67202

Re: Counties--Ambulance Service--Reimbursement

Synopsis: A city and township which contracts with a nonprofit corporation for ambulance service is eligible for reimbursement from the county pursuant to K.S.A. 19-261. Such a contract is within the authority of the city and township. It is the responsibility of the county to determine whether the ambulance service so provided is adequate so as to require the county to withdraw its own ambulance service from the area served by the local subdivisions. If the city and township provide service for less than the entire calendar year, its share of reimbursement from the county under K.S.A. 19-261 should be adjusted accordingly.

* * *

Dear Mr. Jorgensen:

As city attorney for the City of Mt. Hope, and as counsel for Greeley Township, in which the city is located, you inquire concerning possible reimbursement to the city and township for ambulance service provided by them under K.S.A. 19-261.

You advise that a nonprofit corporation has been organized by numerous individuals in both the township and the city, in order to provide ambulance service to the township and the city. The governing bodies of both the city and township wish to contract with this nonprofit corporation for such service. You advise that although neither the city or the township has budget monies

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for fiscal 1977 specifically for ambulance service, both have sufficient revenue sharing monies available to apply an amount equal to the proceeds of a one-mill levy to a contract with the corporation for ambulance service. Both the city and the township wish to enter into this contract if they may be eligible for reimbursement from the county pursuant to K.S.A. 19-261.

That section authorizes the county to provide ambulance service as a county function or to contract for such services with a city, person, firm or corporation, and pay the costs thereof from the county general fund. It provides further thus:

"The board of county commissioners shall not provide ambulance service under the provisions of this act in any part of the county which receives adequate ambulance service, but the county shall reimburse any taxing district which provides ambulance services to such district with its proportionate share of the county general fund budgeted for ambulance services within the county. Such reimbursement shall be based on the amount that assessed tangible taxable valuation of the taxing district bears to the total tangible valuation of the county, but in no event shall such district receive from the county more than the district's cost of furnishing such ambulance services."

You inquire, first, whether the city and township may contract with a separate entity, such as the nonprofit corporation, for ambulance services and qualify for reimbursement under this section. A "taxing district which provides ambulance service to said district" is eligible for reimbursement. Within the meaning of this section, a taxing district which provides ambulance service through an independent contractor is providing those services equally as is a taxing district which provides those services through its own employees, and both qualify for reimbursement, in my opinion.

Secondly, you ask whether, if the township and city expend from their revenue sharing monies a sum equal to their proportionate share of the county general fund which is budgeted for ambulance services within the county, they may be entitled to full reimbursement for such 1977 expenditures. If services under the projected contract are begun, as anticipated, in the latter part of this

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month, those services will have been provided for approximately two months of the 1977 calendar and fiscal year. The "proportionate share of the county general fund [which is] budgeted for ambulance services within the county" to which the city and township are entitled is based on the "amount that assessed tangible taxable valuation of the taxing district bears to the total taxable tangible valuation of the county." Where the taxing district provides ambulance service for but a portion of the calendar and fiscal year, the amount of reimbursement under this section is subject to adjustment, in my opinion, in the proportion that the total months of service bear to the entire year.

As you point out, K.S.A 19-261 provides that the county shall not provide ambulance service in any part of the county "which receives adequate ambulance service," and you inquire who determines the adequacy of such service. Because it is the obligation of the board of county commissioners to avoid duplication of services and to furnish ambulance services only in those areas which are not receiving adequate service, it is the responsibility of the board, in my judgment, to determine the adequacy of ambulance service provided by a taxing district when it is drawn in question.

In response to your fourth question, the city and township both have authority to enter into the proposed contract for ambulance services, in my judgment. The city, of course, need not look to express statutory authority, but may act in the exercise of its constitutional powers under Article 12, § 5 of the Kansas Constitution. The township is authorized to enter into contracts for ambulance service pursuant to K.S.A. 1976 Supp. 80-1423 et seq.

You inquire, further, whether the city may make a levy of one mill for ambulance services without an election. K.S.A. 1976 Supp. 65-4302(c) requires an election before any tax shall be levied under the provisions of that section. That provision applies only to counties and to certain cities of the second class, those with a population of more than 6,000 and less than 7,000, and in a county with a population of more than 180,000 and less than 200,000. Thus, that section has no application here.

I enclose a copy of opinion no. 77-245, concerning K.S.A. 19-261. If further questions remain or arise in the future, please feel free to contact this office.

Yours truly,



CURT T. SCHNEIDER
Attorney General