



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

February 3, 1978

ATTORNEY GENERAL OPINION NO. 78- 53

Mr. Wayne O. Payer  
Chairman  
Coffey County Commissioners  
Coffey County Courthouse  
Burlington, Kansas 66839

Re: Counties--Interlocal Agreements--Powers

Synopsis: The board of county commissioners in the exercise of its statutory home rule powers may define the duties of county officers to provide services pursuant to interlocal agreements entered into pursuant to K.S.A. 12-2901 *et seq.*, and resolutions which define the duties of such officer for those purposes have the force and effect of law defining the duties of the officer which he or she is legally bound to provide by virtue of his or her office.

\* \* \*

Dear Mr. Payer:

You inquire concerning the authority of the board of county commissioners regarding services provided by other elected officials of the county pursuant to interlocal agreements entered into by the board with other political subdivisions.

You advise that some time ago, the board entered into a written agreement to provide police dispatching services to the City of Burlington. The original agreement has been in effect since January 1, 1974, and has been renewed annually. This year, the board concluded that the monthly rate of \$250.00 should be increased to \$350.00, and has reached agreement with the Burlington city council concerning this and other conditions of the agreement.

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However, you indicate that the Coffey County sheriff has indicated that his office will not provide such dispatching services for the city after the expiration of the present agreement. Accordingly, you inquire concerning the authority of the board of county commissioners to enter into such agreements and to assure that the required services are provided.

Under K.S.A. 12-2901 *et seq.*, the Interlocal Cooperation Act, counties are specifically authorized to enter into agreements with cities relating to

"public improvements, public utilities, police protection, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, or fire protection. . . ."

Most, and perhaps all, of these services are ordinarily furnished not by the board of county commissioners itself, but by one or another elected county official or appointed officer or employee. If, as here, the agreement entails the cooperation and services furnished by an elected official, the question is raised whether that official is free to refuse to provide the requested services, and thus render the board helpless to exercise its statutory powers under the Interlocal Cooperation Act.

K.S.A. 1977 Supp. 19-101a(a), describing the home rule powers of counties, commences thus:

"Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate. . . ."

The furnishing of services pursuant to an interlocal agreement which the board is empowered to enter into pursuant to K.S.A. 12-2901 *et seq.*, is obviously a matter of county business. If, as here, the board is expressly authorized to enter into an agreement with another political subdivision for the joint exercise

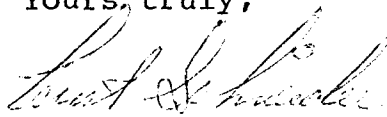
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of certain powers and facilities, it is a matter of county business for the board to attend to the performance of all of the obligations of the county under that agreement. For the performance of such county business, the board is entrusted with statutory powers of local legislation and administration. Thus, the board may, by resolution, define and prescribe the duties of any county officer or employee insofar as they relate to the conduct of county business and here, to the furnishing of services pursuant to an interlocal agreement to which the board of county commissioners is a lawful party. The board may define the duties and responsibilities of such county officer by resolution. Subsection (b) of the cited section states in pertinent part thus:

"Counties shall apply the powers of local legislation granted in subsection (a) of this section by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) of this section and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper."

The board may by resolution define the duties of the sheriff or of any other county officers to provide and furnish services pursuant to an interlocal agreement which is authorized under K.S.A. 12-2901 et seq. That resolution has the force and effect of law, and is binding upon the sheriff as a legislative prescription of the duties of the office which he is required by virtue of his office to provide.

Yours, truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj