



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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April 1, 1982

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ROBERT T. STEPHAN
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION NO. 82- 78

Sheldon J. Kamen, President
Unified School District No. 259
428 South Broadway
Wichita, Kansas 67202

Re: Cities and Municipalities--Governmental Organization--
Consolidation of Operations, Procedures and Functions
By Two or More Political Subdivisions

Synopsis: A county, city and school district may utilize the
procedures of K.S.A. 12-3901 et seq. to provide for
the consolidation of their respective "risk management"
operations. Cited herein: K.S.A. 12-3901, 12-3902,
12-3905, 12-3906, 12-3908.

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Dear Mr. Kamen:

On behalf of U.S.D. No. 259, you request our opinion as to
whether U.S.D. No. 259, the city of Wichita, and Sedgwick
County may operate a "joint office of risk management." You
provide the following information regarding the contemplated
operation of such a joint office:

"The 'consolidated' risk management depart-
ment would be able to advise the different
units of government as to the best options
available in insurance coverage and safety
programs. These recommendations could be
accepted or rejected by the City, County, or
Board of Education, as the 'consolidated'

risk management department would have no power other than to recommend various alternatives based on what directives are given to them by the Boards.

"Once a recommended insurance program or safety program is accepted by the Boards, then the risk management department would administer all or part of these programs. This would be accomplished in a manner specified by policy guidelines put forth by each Board so as to fit each Board's needs.

"It is hoped that by large-scale insurance purchases, a county-wide safety program, and a professional approach to insurance practices, that the quality of insurance practices and an economy of scale can be realized. It should be pointed out that if one of the local units of government wished to direct the risk management department to purchase its insurance in a certain specified way separate from the other governmental units, that this too would present no problem."

K.S.A. 12-3901 et seq. permit the consolidation of government operations and functions, where it is determined that said operations can be more efficiently and effectively provided as a consolidated activity performed by a single intergovernmental office or agency. Specifically, K.S.A. 12-3903 provides as follows:

"Whenever the governing body of any political or taxing subdivision of this state shall by resolution determine that duplication exists in the operations, procedures or functions of any of the offices or agencies of such subdivision or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and effectively exercised or provided as a consolidated activity performed by a single office or agency, or whenever the governing body of any two or more political or taxing subdivisions of this state shall by the passage of identical resolutions determine that duplication exists in the operations, procedures or functions of offices or agencies of such subdivisions or that the operations, procedures or functions of any of the offices or agencies thereof can be more efficiently and

effectively exercised or provided as a consolidated activity performed by a single intergovernmental office or agency or by a single officer or agency of one of the participating political or taxing subdivisions, such governing body or governing bodies are hereby authorized to consolidate any or all of the operations, procedures or functions performed or carried on by such offices or agencies by the passage of a resolution or identical resolutions setting out the time, form and manner of consolidation and designating the surviving office or agency. The elimination of an elective office by consolidation under the provisions of this act shall be subject to the approval of a majority of the electors of the political or taxing subdivision served by such office, voting at an election called and held for such purpose, in the manner provided by the general bond law."

The term "political and taxing subdivisions of this state" is defined to include cities, counties and school districts. K.S.A. 12-3902.

K.S.A. 12-3908 relates to funding of the "surviving" intergovernmental office or agency, and provides as follows:

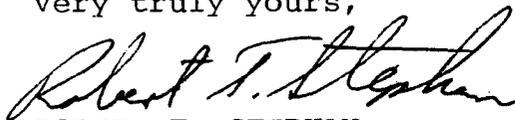
"Any political or taxing subdivision of this state entering into an agreement with any other such political or taxing subdivision pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply to any surviving office or agency designated by an agreement made hereunder such personnel or services therefor as may be within its legal power to furnish."

In our judgment, if governing bodies of the city of Wichita, Sedgwick County, and U.S.D. No. 259, made the determinations, by identical resolutions, required by K.S.A. 12-3903, the above-quoted statutes could be utilized to establish the consolidated risk management department which is being considered by U.S.D. No. 259. However, it should be noted that none of the participating political subdivisions could, by establishment of a joint office of risk management, relieve itself of any obligation or responsibility imposed upon it by law. See K.S.A. 12-3905. Additionally, any consolidation agreement which affects functions or services

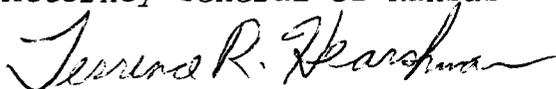
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over which an officer or agency of state government has powers of control must be submitted to the officer or agency for approval. See K.S.A. 12-3906.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm