



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 86- 151

Granville M. Bush IV
Rice County Attorney
Rice County Courthouse
Lyons, Kansas 67445

Re: Townships and Township Officers -- Hospitals and Health Care Facilities; Hospitals -- Petition to Enlarge Territorial Boundaries of Hospital District

Synopsis: K.S.A. 80-2522 provides that "any one or more political subdivisions desiring to be attached to and become a part of any hospital district . . . may do so in the manner provided in this section." In that the statute contains no territorial limitations on a political subdivision which may wish to petition for attachment to an existing hospital district, a city may petition to be included in a hospital district when no part of the city is contiguous to or adjacent to any boundary of the hospital district. Cited herein: K.S.A. 80-2503; 80-2522; 80-2198, repealed L. 1984, ch. 374, §35.

* * *

Dear Mr. Bush:

As County Attorney for Rice County, you request our opinion on a question concerning a petition to enlarge the territorial boundaries of Hospital District No. 1, Rice County. Specifically, you inquire whether the provisions of K.S.A. 80-2522 allow an area within Rice County (i.e. the city of

Sterling) to petition to be included in Hospital District No. 1, when no part of the city is contiguous to or adjacent to any boundary of the hospital district.

Our research has revealed no Attorney General opinions or Kansas court decisions which interpret the meaning of K.S.A. 80-2522. Thus, in order to answer your inquiry, we find it necessary to construe the language of relevant statutes ourselves.

In your letter to this office, you indicated that you could find no statutory basis in K.S.A. 80-2522 for requiring a political subdivision to be contiguous or adjoining to a hospital district in order for it to become part of said district. Nevertheless, you expressed doubt as to whether the city of Sterling could legally become a part of Hospital District No. 1, Rice County, because of a provision in K.S.A. 80-2503. That statute deals with the procedure to establish a hospital district, and states at subsection (a):

"Any two or more adjoining political subdivisions are hereby authorized to join in the establishment of a hospital district and in the acquisition, construction or reconstruction, improvement, enlargement, remodeling or repairing of a hospital within such hospital district and in the operation and maintenance of any such hospital."
(Emphasis added.)

Thus, K.S.A. 80-2503 outlines the procedure to be followed when two or more adjoining political subdivisions want to establish a hospital district. In that the city of Sterling wants to become part of an existing hospital district, rather than join with another political subdivision to create a new hospital district, we find K.S.A. 80-2503 to be inapplicable to the issue we address.

A statute which is relevant to your inquiry is K.S.A. 80-2522. The statute deals with the attachment of territory to a hospital district, and states:

"Any one or more political subdivisions desiring to be attached to and become a part of any hospital district, or any

remaining portion of any political subdivision which is a part of the hospital district desiring to be attached to and become a part of such a hospital district as one area, may do so in the manner provided in this section."
(Emphasis added.)

Thus, K.S.A. 80-2522 places no territorial limitations on a political subdivision which may wish to petition for attachment to an existing hospital district. In fact, the statute plainly provides that any one or more political subdivisions can attach to and become part of any hospital district, as long as the procedures for attachment in K.S.A. 80-2522 are followed.

In addition to analyzing K.S.A. 80-2522, we feel it is noteworthy to examine the former Kansas statute dealing with attachment of territory to a hospital district, K.S.A. 80-2198. This statute, which was repealed in 1984, provided:

"Any one or more incorporated cities and any one or more townships or portions of one or more townships desiring to be attached to and become a part of any hospital district created under the authority of this act may do so in the manner hereinafter provided."

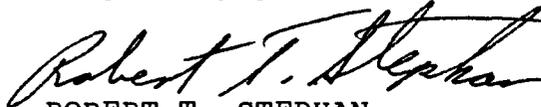
We note that this former language allowed any incorporated city or township to become part of any hospital district without limitation, as long as the statutory attachment procedures were followed. The statute was repealed in 1984 and replaced by a new statute, at which time the legislature had the opportunity to require that attaching political subdivisions be adjoining. It appears this was never the legislature's intention, as neither the former attachment statute (K.S.A. 80-2198) nor the present attachment statute (K.S.A. 80-2503) contains the word "adjoining" or any similar limiting adjective. By contrast, the 1984 establishment statute (K.S.A. 80-2503), unlike its predecessor, contains the limitation that political subdivisions wanting to join in the establishment of a hospital district must be adjoining.

Accordingly, it is our opinion that neither the former nor present Kansas statutes dealing with attachment of territory

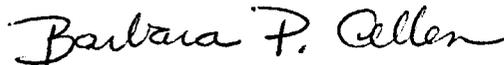
to a hospital district require a hospital district and a political subdivision to be adjoining, in order for the subdivision to become part of the district.

In summary, K.S.A. 80-2522 provides that "any one or more political subdivisions desiring to be attached to and become a part of any hospital district . . . may do so in the manner provided in this section." In that the statute contains no territorial limitations on a political subdivision which may wish to petition for attachment to an existing hospital district, a city may petition to be included in a hospital district when no part of the city is contiguous to or adjacent to any boundary of the hospital district.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Barbara P. Allen
Assistant Attorney General

RTS:JLM:BPA:crw