



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 87-176

Mr. Joseph F. Harkins, Director  
Kansas Water Office  
109 S.W. Ninth, Suite 200  
Topeka, Kansas 66612-1215

Re: Counties and County Officers--General Provisions;  
Home Rule Powers

Cities and Municipalities--General Provisions--  
Corporate Powers; Home Rule of Local Affairs and  
Government

State Boards, Commissions and Authorities--Kansas  
Water Office and Kansas Water Authority

Synopsis: The Kansas Water Office possesses statutory authority to recommend the proposed name change of local health departments. The recommendation can be made to either the local authorities who govern such a department or to the state legislature or governor. When the health department is created pursuant to state authority, the state can legislatively mandate such a name change. Whether a local health department can individually effect such a change depends upon the extent and degree of local authority over each individual health department. Cited herein: K.S.A. 12-101 et seq.; K.S.A. 19-101 et seq.; K.S.A. 74-2616; K.S.A. 1986 Supp. 74-2622; K.S.A. 75-5601; K.S.A. 1986 Supp. 82a-906; 82a-927; 82a-928, as amended by L. 1987, ch. 402, sec. 3.

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Dear Mr. Harkins:

As Director of the Kansas Water Office, you request our opinion on whether local health departments, on their own initiative, can change their names to departments of health and environment or whether specific statutory authority is necessary to allow such a change. You inform us that the Kansas Water Authority recently approved a new subsection of the Kansas Water Plan and that a key recommendation in the subsection calls for such a name change.

K.S.A. 75-5601 creates a state department of health and environment. K.S.A. 74-2616 transfers all of the powers and duties of the department of health and environment, relating to water resource planning functions, to the newly established Kansas Water Office. K.S.A. 1986 Supp. 74-2622 sets forth the powers and duties of the Kansas Water Office. Many of these powers and duties are advisory in nature. Pursuant to K.S.A. 1986 Supp. 74-2622(c)(4) of this act, the Kansas Water Office may "[m]ake recommendations to other state agencies and political subdivisions of the state for the coordination of their activities. . . ."


K.S.A. 1986 Supp. 82a-906 dictates that the Kansas Water Office shall annually submit to the legislature and to the governor an updated water plan recommending long-range goals and objectives as described in K.S.A. 1986 Supp. 82a-927. In order to achieve those long-range goals and objectives, K.S.A. 1986 Supp. 82a-728(p) states that one of the desirable policies is "the encouragement of local initiatives in the planning, implementation, funding and operation of local water programs to the extent that the same are supportive of the state water programs. . . ." We assume that the proposed name change in some way aids in the implementation of a local water program. Thus, there exists statutory authorization for the action taken by the Kansas Water Office in either recommending of a proposed name change to the local health departments or to the legislature and to the governor.

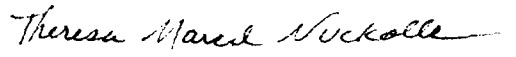
The question submitted concerns the power of local health departments to make a name change solely on their own initiative. You have informed us that local health departments have been established and are controlled by a variety of governmental entities including cities, counties, and a combination of the two. Such local action is individual in nature and thus the extent and degree of local authority varies on a case by case basis. The powers, duties and limitations of the authority governing each local health

department will necessarily determine whether there is authority to make a name change. Therefore we are unable to give an opinion except as to general principles.

The powers and duties of city and county governing bodies are set forth in K.S.A. 12-101 et seq. and K.S.A. 19-101 et seq. respectively. If the local health department was validly created pursuant to home rule authority, the governing body of the local health department may, for any legally permissible purpose, change the name unless otherwise prohibited. In addition to the state's power the power to effect a name change lies with the authority of the entity having exclusive administrative control over that health department.

Very truly yours,

  
ROBERT T. STEPHAN  
Attorney General of Kansas

  
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RTS:JLM:TMN:jm