



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

October 18, 1977

ATTORNEY GENERAL OPINION NO. 77- 339

Mr. Earl L. Nagels
Anderson, Granger, Nagels and Lastelic
Suite 306, Capitol Federal Building
95th and Nall
Overland Park, Kansas 66207

Re: Fire Districts--Employees--Retirement

Synopsis: The governing body of a fire district organized under K.S.A. 19-3613 et seq. is authorized to provide a retirement plan for its employees.

* * *

Dear Mr. Nagels:

As counsel for Mission Fire District No. 1, a fire district in Johnson County, Kansas, organized under K.S.A. 19-3613 et seq., you inquire concerning the authority of the governing body thereof to provide a retirement plan for employees of the district. You advise that the fire district is not associated with the Kansas Public Employees Retirement System or the Kansas Police and Firemen's Retirement System, under article 49, K.S.A.

The governing body of the fire district is considering a "money purchase plan" whereby it would make an annual contribution to an insurance company of ten percent of the employees' annual compensation. A portion of the annual contribution would be allocated by the insurance company to the cost of group permanent paid-up life insurance, while the remainder would be applied to an investment fund. Benefits at retirement would be payable in the form of annuity payments. The plan would provide that the governing body of the fire district reserves the right to discontinue or withdraw from the plan at any time.

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You ask whether the governing body is authorized to provide such a plan for its employee firemen or, if it does not, whether the board of county commissioners of Johnson County, Kansas, has such authority through the exercise of its statutory home rule powers under K.S.A. 19-101a et seq. K.S.A. 19-3616 prescribes the authority of the governing body of the fire district in broad terms:

"Upon the creation of a fire district by the county board, the governing body of the fire district so created shall have authority to levy taxes and assessments, to enter into contracts, to acquire by lease or purchase, operate, maintain fire fighting equipment and to acquire, construct buildings to house same and to do all things necessary to effectuate the purposes of this act."

K.S.A. 19-3620, of the same act, elaborates on these powers respecting the district employees thus:

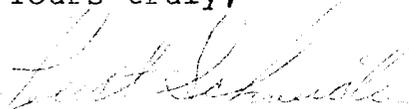
"The governing body shall have full direction and control over the operation of such district fire department and may select regular employees, provide for their compensation and furnish quarters for such employees . . . , and may also provide for the organization of volunteer members . . . , and may insure such employees and volunteers against accidental death and injury in the performance of their duties, and may do all things necessary or desirable to maintain and operate such department so as to furnish fire protection for the inhabitants of such district."
[Emphasis supplied.]

The governing body is given broad authority to "do all things necessary or desirable" to maintain and operate the department. This language, as well as that in K.S.A. 19-3616, indicates an express legislative purpose to vest in the district governing body broad administrative authority and discretion, to encompass all acts which are reasonably related to the operation of the department and its employees. Furnishing a retirement plan for

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its employees is assuredly a "desirable" step in the sound operation of the department, to make adequate provision for the retirement of its employees. In my judgment, it is well within the broad authority of the fire district to provide for the retirement of its employees as outlined above.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj