



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

August 24, 1978

ATTORNEY GENERAL OPINION NO. 78-269

Mr. Laurel D. McClellan
Wilson County Attorney
Post Office Box 478
Fredonia, Kansas 66736

Re: Counties--Home Rule--Law Enforcement Consolidation

Synopsis: County home rule powers may not be used to effect consolidation of countywide law enforcement, such as that provided by K.S.A. 19-4424 *et seq.*, for Riley County,.

* * *

Dear Mr. McClellan:

You inquire concerning the establishment of consolidated law enforcement in Wilson County.

There are three separate statutory enactments which authorize various counties to consolidate all law enforcement responsibilities in such counties, including both city and county activities. See, e.g., K.S.A. 1977 Supp. 19-4401 *et seq.*, K.S.A. 1977 Supp. 19-4424 *et seq.*, and K.S.A. 1977 Supp. 19-4470 *et seq.* You advise, however, that Wilson County does not fall within any of the existing statutory population classifications. You inquire, accordingly, whether Wilson County, and the cities within it may by the exercise of their home rule powers establish consolidated law enforcement in substantially the same manner as provided in K.S.A. 19-4401 *et seq.*

K.S.A. 1977 Supp. 19-101a(a) provides in pertinent part thus:

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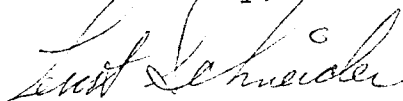
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"Counties are hereby empowered to trans-act all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions"

In the exercise of county home rule powers, the boards of county commissioners are authorized to transact only county business. The legislative powers of the county do not extend to the legislative restructuring of the statutory authority and responsibilities of other political subdivisions, such as cities. The statutory provisions dealing with consolidation entail abolition of municipal and township law enforcement, binding provisions fixing the obligation of cities as well as the county to support the consolidated operation, disability and retirement rights and benefits of the affected officers under the Kansas Public Employees Retirement Act, and like matters, all of which are beyond the statutory home rule powers of counties. There is no provision whereby the home rule power of the county may be exercised jointly with cities, to accomplish any objective which either entity could not accomplish separately.

One statutory enactment is available for consolidation of governmental operations. K.S.A. 12-3901 *et seq.*, enacted in 1974 at the same time county home rule was enacted, provides an express procedure whereby political subdivisions may abolish duplicative offices and operations, and join in establishing a consolidated office or department, by the adoption of identical ordinances and resolutions. I am not aware that this act has been used in any county to accomplish county-wide law enforcement consolidation. I question whether it would be feasible to utilize this avenue of approach, moreover, because certain important matters, such as the retirement and disability rights and benefits of affected officers, could not be dealt with in any such ordinances and resolutions in the manner comparable, *e.g.*, to the statutory provisions made therefor in the acts dealing with consolidation. As a practical matter, I suggest, it will be necessary to seek express legislation to authorize consolidation of law enforcement in Wilson County.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj