



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

December 8, 1981

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ROBERT T. STEPHAN  
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION NO. 81- 270

Mr. Larry Winn III  
Bennett, Lytle, Wetzler, Winn & Martin  
2nd Floor, Johnson County National Bank  
and Trust Company  
5100 West 95th Street  
Prairie Village, Kansas 66208

Re: Counties and County Officers--County Commissioners--  
Reimbursement for Ambulance Services Provided by  
Consolidated Fire District

Synopsis: A consolidated fire district created by virtue of  
K.S.A. 19-3619 may provide ambulance service as  
provided by K.S.A. 19-3636a. As a taxing district  
included within the scope of K.S.A. 1980 Supp.  
19-261, the district may be reimbursed by the board  
of county commissioners for ambulance services pro-  
vided by a district within the county, upon a deter-  
mination by the board that the area so included is  
being provided with adequate ambulance service.  
Cited herein: K.S.A. 1980 Supp. 19-261, 19-3617,  
K.S.A. 19-3619, 19-3623b, 19-3632, 19-3633, 19-3634,  
19-3636a, 80-1520, L. 1981, ch. 125.

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Dear Mr. Winn:

As attorney for Johnson County Consolidated Fire District  
No. 2, you have requested our opinion on a question involving  
ambulance service provided by the district. Specifically,  
you inquire whether the district may be reimbursed for these  
services by the Johnson County Board of County Commissioners  
pursuant to K.S.A. 1980 Supp. 19-261.

As background to the request, you inform us that the district  
as it presently exists is a consolidation of two earlier dis-  
tricts created under different statutes. Prior to consolida-

tion, Fire District No. 2 operated under the provisions of K.S.A. 80-1512 et seq., granting it the power to impose a tax levy to fund its operations. K.S.A. 80-1520. Fire District No. 3, organized under the terms of K.S.A. 19-3613 et seq., likewise possessed the authority to levy a tax to raise operating revenues for its general fund. K.S.A. 1980 Supp. 19-3617. Following consolidation in 1961, pursuant to K.S.A. 19-3619, the new district continued to levy the tax allowed by 19-3617, which was not to exceed 7 1/2 mills. Following the 1981 Legislature, this limit was raised to 8 1/2 mills. (L. 1981, ch. 125)

In addition to providing fire protection, we are informed that the district also provides ambulance service. This is authorized by K.S.A. 19-3636a, which states:

"The governing body of any fire district is hereby authorized and empowered to furnish ambulance service within or without the boundaries of such district."

In addition, K.S.A. 19-3623b authorizes fire districts located in urban areas (as here) to provide emergency ambulance service for persons to hospitals outside the district. While other statutes provide for the imposition of user charges (K.S.A. 19-3633) or a tax levy (K.S.A. 19-3634) to pay for such services, these other statutes are contained in an act (K.S.A. 19-3632 et seq.) which by its terms is limited to districts in counties in the 15,000 to 25,000 population range, and is therefore inapplicable here. Accordingly, expenses for such ambulance service must, in the absence of any other statutory provision, be provided for out of the general district levy of 7 1/2 mills.

However, an additional source of revenue is provided by K.S.A. 1980 Supp. 19-261, which states:

"The board of county commissioners of any county may provide as a county function or may contract with any city, person, firm, or corporation for the furnishing of ambulance services within all or any part of their respective counties upon such terms and conditions, and for such compensation as may be agreed upon which shall be payable from the county general fund. The board of county commissioners shall not provide ambulance service under the provisions of this act in any part of the county which receives adequate ambulance service, but the county shall reimburse any taxing district which provides

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ambulance services to such district with its proportionate share of the county general fund budgeted for ambulance services within the county. Such reimbursement shall be based on the amount that assessed tangible taxable valuation of the taxing district bears to the total taxable tangible valuation of the county, but in no event shall such district receive from the county more than the district's cost of furnishing such ambulance services." (Emphasis added.)

As Johnson County Fire District No. 2 is a "taxing district" providing ambulance services, the only requirement left prior to becoming eligible for county funds under the above section would be a factual determination by the board of county commissioners, i.e., is the district providing "adequate ambulance service" to the area of the county it serves? Once this was done, the fire district is to be compensated using the formula set forth in the language quoted above. See Kansas Attorney General Opinion No. 79-24, at 3.

In conclusion, a consolidated fire district created by virtue of K.S.A. 19-3619 may provide ambulance service as provided by K.S.A. 19-3636a. As a taxing district included within the scope of K.S.A. 1980 Supp. 19-261, the district may be reimbursed by the board of county commissioners for ambulance services provided by the district within the county, upon a determination by the board that the area so included is being provided with adequate ambulance service.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:jm