



STATE OF KANSAS

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ATTORNEY GENERAL OPINION 82- 15

The Honorable Sterling Waggener
State Representative, Fifty-First District
Rm. 175-W, Statehouse
Topeka, Kansas 66612

Re: Counties and County Officers -- Ambulance Service --
City Ambulance Service within the County

Synopsis: A county resolution which requires an ambulance service to have at least four operational ambulances to operate within the county is valid insofar as it establishes minimum operational standards within the county in compliance with K.S.A. 1980 Supp. 19-262. However, such a standard may not be imposed upon a city which provides ambulance service within the city limits. Cited herein: K.S.A. 1980 Supp. 19-261, 19-262, K.S.A. 19-263, 65-4301, 65-4318, 65-4323, Art. 12, Sec. 5, Kansas Constitution.

* * *

Dear Representative Waggener:

You have submitted a copy of a proposed resolution regarding ambulance service in Shawnee County. You ask whether section 52, which prohibits any ambulance service from operating within the county unless the service has at least four fully operational ambulances, is valid and enforceable within the cities located within the county.

Counties are authorized to contract for ambulance services by K.S.A. 1980 Supp. 19-261 which provides:

"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 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."

K.S.A. 1980 Supp. 19-262 requires the board of county commissioners of any county authorizing ambulance service to adopt a resolution establishing minimum standards for the operation and equipping of the ambulances and for the qualifications and training of the personnel who will operate the ambulances. It appears that section 52 of the Shawnee County proposed resolution establishes a minimum standard for the operation and equipping of ambulances as specifically required by K.S.A. 1980 Supp. 19-262, and is a valid standard as it applies to the county. However, K.S.A. 19-263 states:

"Nothing in this act shall affect the right of any city to provide, authorize, regulate, control, contract for and franchise ambulance service within the city limits."

Thus, K.S.A. 1980 Supp. 19-261 may not be interpreted as granting authority to a county to dictate to any city within its boundaries under what terms an ambulance service may operate within said city. A city may act in accordance with its powers of home rule, set forth in Art. 12, Sec. 5 of the Kansas Constitution, to provide ambulance service within the city limits without regard to any ambulance service which may be provided by the county. Alternatively, a city may act pursuant to K.S.A. 65-4301 *et seq.* to establish emergency medical service which includes the provision of ambulance service. We note that K.S.A. 65-4318 states that the act is not to be construed as granting an exclusive territorial right to operate an ambulance service, and K.S.A. 65-4323 states that the

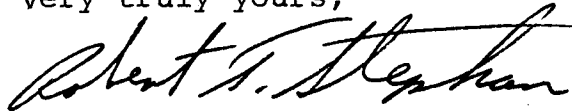
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act is not to be construed as precluding any municipality from licensing and regulating ambulance services located within its jurisdiction, thereby further indicating the legislature's intent to permit cities to control ambulance service within the city. Therefore, although the proposed Shawnee County resolution states that only an ambulance service having at least four operational ambulances may operate within the county, a city may permit an ambulance service with fewer than four operational ambulances to operate within the city.

In addition, we note that should a city provide its own ambulance service in lieu of utilizing the county's ambulance service, K.S.A. 1980 Supp. 19-261 requires the county to reimburse the city with its proportionate share of the county general fund budgeted for ambulance service within the county.

In conclusion, a county may establish minimum operational standards for ambulance services within the county, including the number of ambulances a service must have in operational condition; however, cities located within the county may establish ambulance service within the city limits without being bound thereby.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Brenda L. Hoyt
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RTS:BJS:BLH:hle