



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 107

David E. Retter
Concordia City Attorney
213 West Sixth, P.O. Box 676
Concordia, Kansas 66901

Re: Public Health--Emergency Medical Services--
Establishment, Operation and Maintenance of
Emergency Medical Services; Tax Levies; Protest
Petition, Election; Reimbursement of Certain Taxing
Districts by Counties

Synopsis: A county, as a subdivision of state government is
subject to limitations imposed by an enabling act.
K.S.A. 1990 Supp. 65-6113 limits how a county may
reimburse a taxing district that provides ambulance
service. Given that home rule cannot be used
because the act is uniformly applicable, the
reimbursement formula cannot be altered, short of
legislative amendment. Cited herein: K.S.A. 1990
Supp. 19-101a; 65-6113.

* * *

Dear Mr. Retter:

As Concordia city attorney you inquire whether the county can
unilaterally alter the statutory formula for distribution of
tax dollars in K.S.A. 1990 Supp. 65-6113.

Generally the statute addresses the establishment, operation
and maintenance of an emergency medical service; how a tax
levy for this purpose may be imposed and how the levy may be

opposed. Subsection (d), addressing a county's ambulance service, states:

"(d) In the case of a county, the board of county commissioners shall not provide ambulance service under the provisions of this act in any part of the county which receives ambulance service, but the county shall reimburse any taxing district which on the effective date of this act provides ambulance services to such district with its proportionate share of the county general fund or special tax levy fund budgeted for ambulance services within the county. Such reimbursement shall be based on the amount that the assessed tangible taxable valuation of the taxing district bears to the total taxable tangible valuation of the county, but in no event shall such taxing district receive from the county more than the district's cost of furnishing such ambulance services. Any taxing district establishing ambulance service in any part of a county under the provisions of this act on or after the effective date of this act shall not be entitled to receive reimbursement pursuant to this subsection until a final order of the emergency medical services board ordering such reimbursement is issued following the furnishing of notice and an opportunity for a hearing to the interested parties. No order for reimbursement shall be issued unless the emergency medical service board finds that such establishment shall enhance or improve ambulance service provided to the residents of such taxing district as determined in accordance with criteria established by rules and regulations adopted by the board."
(Emphasis added).

Your question concerns changing the statutory formula for distribution of the tax dollars to taxing districts that already provide ambulance services. The statute requires that the reimbursement be based on the amount that the assessed tangible taxable valuation of the taxing district bears to the

total taxable tangible valuation of the county, but prohibits exceeding the district's actual cost of furnishing the ambulance service.

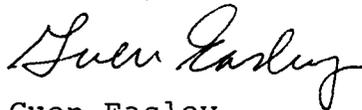
Generally a county may exercise its powers of home rule to exempt out of a statute. K.S.A. 1990 Supp. 19-101a. There are however limitations to the exercise of this power. One such limit makes counties subject to all legislative acts that are uniformly applicable. K.S.A. 1990 Supp. 65-6113 is uniformly applicable, and in our opinion a county cannot use home rule to exempt itself from its application. The statute can thus only be altered by legislative amendment. The power to amend statutes resides in the law making body and cannot be delegated to others. 82 C.J.S. Statutes § 243 (1953). See generally Roppel v. City of Fairway, 189 Kan. 710, 713 (1962).

In conclusion the statute requires that the reimbursement to the taxing districts be based on the formula provided. In our judgment the county cannot use a different formula for the distribution of tax dollars, short of legislative amendment.

Very truly yours,



ROBERT T. STEPHAN
Attorney General



Guen Easley
Assistant Attorney General