

FIRE PROTECTION
DISTRICTS:
AMBULANCES:

Fire protection districts organized under the provisions of Section 321.510 to Section 321.715, RSMo 1969, continue as legal entities although the statutes under which they were organized have been repealed. Emergency ambulance service provided for under Section 321.225, RSMo 1969, furnished by the district must be furnished for the entire district and not for the portion of the district within one county.

OPINION NO. 438

October 28, 1970



Honorable Melvin Vogelsmeier
State Representative
One Hundred Ninth District
Concordia, Missouri 64020

Dear Representative Vogelsmeier:

This is in response to your request for an opinion from this office concerning fire protection districts in third class counties as follows:

"The fire district in question is one that was organized in 1968 and the area covers parts of three (3) counties.

"No 1 Is such a district having complied with all the requirements RSMo, 1959, is such a district operating legally?

"No 2 Can such a fire district organize an Emergency ambulance service with in one county of the district, under RSMo 1969 chapter 321?"

You state the fire protection district to which you refer was organized in 1968. If so, it was formed under the provisions of Section 321.510 to Section 321.715, RSMo 1969, which applied only to fire protection districts in class two, three and four counties. These sections were repealed by Senate Committee Substitute for House Bill 322, Seventy-fifth General Assembly which amended Section 321.010, RSMo 1969 and other sections so that they would apply to all counties in this state.

You inquire whether a fire protection district organized

Honorable Melvin Vogelsmeier

in 1968 with an area in parts of three counties continues to operate legally. Senate Committee Substitute for House Bill 322 previously referred to herein provides in part:

"Section A. Any fire district already formed or in the process of being formed under the laws of this state on October 13, 1969 shall on the completion of its formation automatically be under all the provisions of chapter 321 RSMo."

This provision as enacted by the legislature has been omitted from the revised statutes. However, its omission from the revised statute does not invalidate such law. Rutledge v. Simpson's Adm'r, 42 S.W. 820, 141 Mo. 290; Langston v. Canterbury, 173 Mo. 122; Granger v. Barber, 236 S.W.2d 293, 361 Mo. 716.

It is the opinion of this office that a fire protection district organized under Section 321.510 to 321.715 RSMo continues as a legal entity even though the statutes under which it was organized have been repealed.

In answer to your second question whether a fire protection district which is composed of areas in three or more counties can organize an emergency ambulance service in one county of the district, it is our opinion that it cannot.

Section 321.225, RSMo provides:

"1. A fire protection district may, in addition to its other powers and duties, provide emergency ambulance service within its district if a majority of the voters voting thereon approve a proposition to furnish such service and to levy a tax not to exceed five cents on the one hundred dollars assessed valuation to be used exclusively to supply funds for the operation of an emergency ambulance service. The district shall exercise the same powers and duties in operating an emergency ambulance service as it does in operating its fire protection service.

"2. The proposition to furnish emergency ambulance service may be submitted by the board of directors at the next annual election of the members of the board or at a special election called for the purpose, or upon petition by five hundred duly qualified electors of such district.

Honorable Melvin Vogelsmeier

A separate ballot containing the question shall read as follows:

Shall the board of directors of _____ Fire Protection District be authorized to provide emergency ambulance service within the district and be authorized to levy a tax not to exceed five cents on the hundred dollars assessed valuation to provide funds for such service?

- For emergency ambulance service and the levy
- Against emergency ambulance service and the levy

(Place an X in the square opposite the one for which you wish to vote.)

If a majority of the qualified voters casting votes thereon be in favor of emergency ambulance service and the levy, the district shall forthwith commence such service.

"3. As used in this section 'emergency' means a situation resulting from a sudden or unforeseen situation or occurrence that requires immediate action to save life or prevent suffering or disability."

It is our view that in order for a fire protection district to furnish emergency ambulance service under Section 321.225, the question must be submitted to a vote of the qualified voters of the entire district and, if the majority of the voters voting thereon are in favor of the ambulance service and the tax levy as submitted, such service may be furnished by the district. If the ambulance service is provided it must be for the whole district, as such, the same as any other service furnished by the district and not for a portion of the district within one county.

CONCLUSION

It is the opinion of this office that fire protection districts organized under the provisions of Section 321.510 to Section 321.715, RSMo 1969, continue as legal entities although the statutes under which they were organized have been repealed. Emergency ambulance service provided for under Section 321.225,

Honorable Melvin Vogelsmeier

RSMo 1969, furnished by the district must be furnished for the entire district and not for the portion of the district within one county.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Very truly yours,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH
Attorney General