

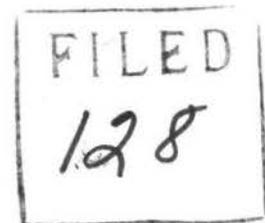
FIRE PROTECTION DISTRICTS:

1. A fire protection district may provide emergency assistance and first aid even though emergency ambulance service is not established under Section 321.225 RSMo 1969. 2. The board of directors of a fire protection district organized prior to October 13, 1969, under Section 321.510 to 321.715 RSMo 1959 as amended, continue in office until the expiration of their terms and no successors shall be elected for the two members whose terms first expire. 3. The board of directors should certify the tax levy as provided under Section 321.250 RSMo 1969 to the county court of each county in which the fire protection district is located and the taxes should be collected by the officials whose duty it is to collect taxes for such counties.

May 6, 1971

OPINION NO. 128

Honorable James G. Lauderdale
Prosecuting Attorney
Lafayette County
1017 Franklin Avenue
Lexington, Missouri 64067



Dear Mr. Lauderdale:

This is in response to your request for an opinion as follows:

"On January 20, 1971, I talked at some length by telephone to Harvey Tettlebaum in your office re House Bill No. 322, as passed by the 75th General Assembly. I explained to him that on July 4, 1969, the Concordia Fire Protection District, Inc., was organized under the provisions of the 'old law,' that said District includes parts of Lafayette, Saline and Johnson Counties.

"In your Opinion No. 438, you concluded that Fire Protection Districts organized under the provision of said 'old law', Sec. 321.510 to Sec. 321.715, RSMO., 1969, continue as legal entities, although the Statutes, under which they were organized, have been repealed, and that emergency service provided for under Sec. 321.225, RSMo., 1969, furnished by the District, must be furnished for the entire District.

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"Question; now it seems we have an 'orphan' group with no parent, trying to continue to live in 'limbo' with little legal direction to help decide what it can or can't do. 1) Can the Fire Protection District, under its original organization and authority, now by a vote of the Board of Directors increase its operating levy to the maximum of twenty five cents and use the money as is now provided by Sec. 321.010, RSMo., as set out in House Bill No. 322, to 'render first aid for the purpose of saving lives, and give assistance in the event of an accident or emergency of any kind.' 2) Does the Fire Protection District continue to operate within the board of five members, or must they now operate with a three member board as provided by the new law. 3) Assuming that they may vote to increase their levy, what procedures do they follow for certifying this levy to the County Courts of the three respective Counties, as abovesaid, and what authority is there for the County Court to accept, assess and collect the additional tax."

You refer to Opinion No. 438 issued by this office on October 28, 1970 in which we stated that fire protection districts organized on or before October 13, 1969 continue as legal entities. The authority for that statement is found in House Bill 322 enacted in 1969 which states as follows:

"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."

You state the fire protection district in question was organized in July, 1969. It is now governed by the new provisions to which we refer.

Section 321.240 RSMo 1969 authorizes a board of directors of the fire protection district to levy a tax not in excess of 30 cents on the one hundred dollars valuation of taxable, tangible property within the district. The funds can be used for paying expenses of organization and operation and costs of acquiring, supplying and maintaining the property, works and equipment of the district and maintaining the necessary personnel.

In answer to your first question in which you inquire whether these funds may be used for the purpose of providing assistance in

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accidents or emergencies we note that Section 321.010 RSMo 1969 provides in part:

"1. A 'fire protection district' is a political subdivision which is organized and empowered to supply protection by any available means to persons and property against injuries and damage from fire and from hazards which do or may cause fire, and which is also empowered to render first aid for the purpose of saving lives, and to give assistance in the event of an accident or emergency of any kind. The district must consist of contiguous tracts or parcels of property, and may include within its boundaries, or may be contiguous with, any city, town or village."

Further Section 321.220 RSMo 1969 provides that the district shall have power:

"(14) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter;"

It is our view therefore that the broad powers conferred on the board in Section 321.010 are to be liberally construed and as a result even though an ambulance service is not authorized under Section 321.225 RSMo 1969, the board has the power to provide first aid and emergency equipment services as part of the district's general operations. That is, although in such a case ambulance services are not authorized and therefore cannot be provided, other emergency services are authorized and may be paid for out of the thirty cent levy authorized by Section 321.240.

In answer to your second question, it is our opinion that the present board of directors consisting of five members continue in office until the expiration of their terms, but no successors shall be elected for the two directors whose terms first expire.

In reply to your third question we refer to Section 321.250 RSMo 1969 which provides:

"On or before the fifteenth day of May of each year, the board shall certify to the county court of the county within which the district is located a rate of levy so fixed by the board

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as provided by law, with directions that at the time and in the manner required by law for levy of taxes for county purposes such county court shall levy a tax at the rate so fixed and determined upon the assessed valuation of all the taxable tangible property within the district, in addition to such other taxes as may be levied by such county court."

Further, Section 1.030 RSMo 1969 provides:

"1. Whenever, in any statute, words importing the plural number are used in describing or referring to any matter, parties or persons, any single matter, party or person is included, although distributive words are not used.

"2. When any subject matter, party or person is described or referred to by words importing the singular number or the masculine gender, several matters and persons, and females as well as males, and bodies corporate as well as individuals, are included."

Although Section 321.250, refers to "county" in the singular, it is clear from the language used in Section "A" of House Bill 322, that under Section 1.030 the word "county" in Section 321.250 would include all counties in which parts of the fire protection district are located, and that, therefore, the fire protection district should certify to the county courts of the counties in which the district is located, the tax levy for such fire protection district. Under Section 321.270 RSMo 1969 it is the duty of the officials charged with the duty of collecting taxes in the respective counties to collect such taxes.

CONCLUSION

It is the opinion of this office that:

1. A fire protection district may provide emergency assistance and first aid even though emergency ambulance service is not established under Section 321.225 RSMo 1969.

2. The board of directors of a fire protection district organized prior to October 13, 1969, under Section 321.510 to 321.715 RSMo 1959 as amended continue in office until the expiration of their terms and no successors shall be elected for the two members whose terms first expire.

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3. The board of directors should certify the tax levy as provided under Section 321.250 RSMo 1969 to the county court of each county in which the fire protection district is located and the taxes should be collected by the officials whose duty it is to collect taxes for such counties.

The foregoing opinion which I hereby approve was prepared by my assistant John C. Klaffenbach.

Very truly yours,

A handwritten signature in black ink, reading "John C. Danforth". The signature is written in a cursive style with a large initial "J" and "D".

JOHN C. DANFORTH
Attorney General