

FIRE PROTECTION DISTRICTS:

1. A fire protection district in constitutional charter counties has authority to contract with another fire protection district for providing a joint fire and emergency dispatching service. The dispatching center which furnishes the dispatching service may hire a chief dispatcher but does not have authority to contract with a private corporation to furnish a chief dispatcher.

2. A chief dispatcher as required in Section 321.245, RSMo 1969, to be in charge of the operation and directly responsible to the management of the dispatching service is not required to be physically present twenty-four hours a day seven days a week. Such chief dispatcher must give his position his complete and undivided attention and may not engage in any other activities that would either consume any of the portion of the time required for him properly to function as chief dispatcher or which would in any respect interfere with his ability to perform his duties.

OPINION NO. 48

March 22, 1972

Honorable J. Anthony Dill  
Representative, District 44  
Room 235A, Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Dill:

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

"1. May Fire Protection District in St. Louis County, incorporated under Chapter 321 R.S.Mo.1969, which is levying a dispatching tax pursuant to the provisions of section 321.243, contract with a private person, firm or corporation to provide the services of chief dispatcher as required by Section 321.245 (4), providing such private person, firm or corporation has at least a second class radio telephone license issued by the Federal Communications Commission, and is otherwise qualified by the provisions of this section?

"2. Is it necessary that a person, firm or corporation possessing the qualifications of chief dispatcher as set out in Section 321.245 (4) be present in the dispatching center on a 24 hour 7 day basis? Is it necessary that a person, firm or corporation possessing

Honorable J. Anthony Dill

the qualifications of chief dispatcher as described in Section 321.245 (4) be on call and available to the dispatching center on a 24 hour, 7 day basis to fulfill the requirements of said Section?"

As we understand the facts, the South St. Louis County fire dispatching center, a joint agency operated by seven cooperating fire protection districts, presently retains an individual as chief dispatcher and that the dispatching center may have the opportunity to contract with an independent corporation to provide the chief dispatcher; and you inquire whether the dispatching center has the legal authority to contract with an independent corporation as chief dispatcher or to furnish a chief dispatcher.

Section 321.220, RSMo 1969, provides that a fire protection district shall have the following powers, authority and privileges including:

"(4) To enter into contracts, franchises and agreements with any person, partnership, association or corporation, public or private, affecting the affairs of the district, including contracts with any municipality, district or state, or the United States of America, and any of their agencies, political subdivisions or instrumentalities, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service relating to the control or prevention of fires, including the installation, operation and maintenance of water supply distribution, fire hydrant and fire alarm systems; provided, that a notice shall be published for bids on all construction or purchase contracts for work or material or both, outside the authority contained in subdivision (9) below, involving an expense of two thousand dollars or more;"

Under this statute a fire protection district is given express authority to enter into contracts, franchises and agreements with any person, partnership, association, corporation, public or private, affecting the affairs of the district.

Section 321.243, RSMo, provides:

"1. Notwithstanding any other provision of law, an additional tax of not to exceed three

Honorable J. Anthony Dill

cents per one hundred dollars of assessed valuation may be levied and collected by any city, town, village, or fire protection district all or part of which is located in a county of the first class having a charter form of government, but all the funds derived from such tax shall be used solely for the purpose of providing a joint, central fire and emergency dispatching service.

"2. The additional tax prescribed by this section shall be levied only when the governing body of the city, town, village, or fire protection district determines that a central fire and emergency dispatching center is available, that the center meets the minimum requirements set by section 321.245, and when the governing body has entered into a contract with the center for fire and emergency dispatching services. The funds from the tax shall be kept separate and apart from all other funds of the city, town, village, or fire protection district, and shall be paid out only on order of the governing body."

A basic rule of statutory construction is to seek legislative intention, which should be ascertained from the words used, if that is possible, and in so doing, words should be given their plain and ordinary meaning so as to promote object and manifest purpose of statute, State ex rel. State Highway Commission v. Wiggins, 454 S.W. 2d 899 (Mo. banc 1970).

It is our opinion that under this statute any city, town, village or fire protection district all or part of which is located in a county of the first class having a charter form of government may levy a tax not to exceed three cents per one hundred dollars assessed valuation to be used solely for the purpose of providing a joint, central fire and emergency dispatching service. This tax can be used only for a joint dispatching service with another fire protection district or municipal corporation.

The question under consideration concerns only the furnishing or hiring the chief dispatcher. Section 321.245, RSMo, provides in part that no central dispatching center shall qualify to receive any of the funds collected pursuant to Sections 321.243 and 321.245, RSMo, unless it meets the following minimum equipment and personnel requirements including:

"(4) A chief dispatcher to be in charge of operations, who must have at least a Federal

Honorable J. Anthony Dill

Communications Commission second class radio telephone license, and who shall be directly responsible to the management of the dispatching service; plus

"(5) Sufficient senior dispatchers to provide twenty-four hour attendance at the center; plus

"(6) Such assistant dispatchers as may be necessary to provide two-man switchboard operation during certain hours as prescribed in sections 321.243 and 321.245;

\* \* \*

"2. A minimum of two dispatchers shall be on duty at all times in any central dispatching center between the hours of 7:00 a.m. and 11:00 p.m. If only one dispatcher is on duty at other times, a twenty-minute watchman's check shall be maintained.

"3. All dispatchers shall be at least twenty-one years of age and not more than seventy years of age. They shall devote their full time to this occupation. Each dispatcher must be capable of operating all equipment used in the dispatching center.

"4. Each dispatching center shall employ sufficient personnel to insure that no person will be required to be on duty without at least twelve hours between shifts."

It is our opinion that under the above statute the chief dispatcher has to be in charge of the operation of the dispatching center, have at least a Federal Communications Commission second class radio telephone license, and be directly responsible to the management of the dispatching service. A corporation is not qualified for a Federal Communications Commission second class radio telephone license. 47 U.S.C.A., Section 303(l) (1), Rules and Regulations of the Federal Communications Commission. Under Section 321.245(4), supra, the chief dispatcher has to be responsible to the management of the dispatching service, which in this case, consists of the several fire protection districts operating the joint service. The chief dispatcher under these conditions has to be under the control and responsible to the dispatching center. Therefore, it is our view that the dispatching center cannot contract with a private corporation to furnish a chief dispatcher.

Honorable J. Anthony Dill

In answer to your second question, it is our opinion that subsection 4 of Section 321.245, supra, which requires the chief dispatcher to be in charge of the dispatching service and directly responsible to the management of the dispatching service is to be given a reasonable construction and that he is not required to be on duty twenty-four hours a day seven days a week but require him to give such time and devote such service as is necessary for the performance of his duties. We believe this is a matter between the dispatching center and the employee regarding his hours of service. Statutes which define the duties of a public employee should be reasonably construed. Section 321.245(3), supra, requires all dispatchers to devote their full time to this occupation. In Opinion No. 130 issued by this office on March 22, 1966 (a copy enclosed), the term "full time" as used in a statute was defined. It is our opinion that the chief dispatcher is not required to be physically present at the dispatching center twenty-four hours a day seven days a week, but that he is required to devote full time to the performance of his duties as such phrase is ruled in attached Opinion No. 130.

#### CONCLUSION

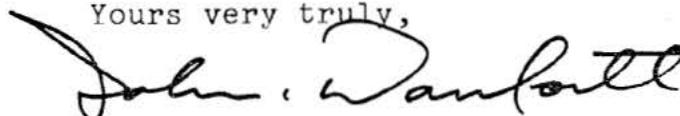
It is the opinion of this office that:

1. A fire protection district in constitutional charter counties has authority to contract with another fire protection district for providing a joint fire and emergency dispatching service. The dispatching center which furnishes the dispatching service may hire a chief dispatcher but does not have authority to contract with a private corporation to furnish a chief dispatcher.

2. A chief dispatcher as required in Section 321.245, RSMo 1969, to be in charge of the operation and directly responsible to the management of the dispatching service is not required to be physically present twenty-four hours a day seven days a week. Such chief dispatcher must give his position his complete and undivided attention and may not engage in any other activities that would either consume any of the portion of the time required for him properly to function as chief dispatcher or which would in any respect interfere with his ability to perform his duties.

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

Yours very truly,



JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 130  
3-22-66, Sloan