



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

March 24, 1975

The Honorable Joe Resweber
County Attorney
Harris County Courthouse
Houston, Texas 77002

Opinion No. H- 562

Re: Constitutionality of
article 2351a-6, V. T. C. S.,
authorizing rural fire pre-
vention districts to provide
ambulance services.

Dear Mr. Resweber:

You have requested our opinion regarding the constitutionality of article 2351a-6, section 11, subsections 3 and 6, V. T. C. S., which deal with certain powers delegated by the Legislature to rural fire prevention districts.

Article 3, section 48-d of the Texas Constitution permits the Legislature to provide for the establishment and creation of rural fire prevention districts and to authorize a tax upon the ad valorem property located therein not to exceed 3¢ per \$100.00 valuation. You ask whether this constitutional provision empowers the Legislature to authorize rural fire prevention districts:

(3) to enter into contracts with any others, including incorporated cities or towns or other districts whereby fire fighting facilities and fire extinguishment services and/or emergency rescue and ambulance services may be available to the district, upon such terms as the governing body of the district shall determine. The contract may provide for reciprocal operation of services and facilities if the contracting parties find that such operation would be mutually beneficial, and not detrimental to the district.

(6) to lease, own, maintain, operate and provide emergency ambulance service and all other necessary and proper equipment therewith for the prevention of loss of life from fire and other hazards which may result in serious injuries to persons.

Initially, we may observe that a strong presumption exists in favor of the constitutionality of any statute, and that doubts are to be resolved in favor of constitutionality. Vernon v. State, 406 S. W. 2d 236 (Tex. Civ. App. --Corpus Christi 1966, writ ref'd n. r. e.); Smith v. Davis, 426 S. W. 2d 827 (Tex. Sup. 1968). Furthermore, the authority to the Legislature is plenary, and the extent of that authority is limited only by express or implied limitations therein contained in or necessarily arising from the Constitution itself. Government Services Ins. Underwriters v. Jones, 368 S. W. 2d 560 (Tex. Sup. 1963).

Section 48-d does not specify any of the functions of a rural fire prevention district. It is well established, however, that a grant of power in the Constitution carries with it by necessary implication the grant of such additional powers as may be necessary to effectuate the purpose of the granted power. First National Bank v. Port Arthur, 35 S. W. 2d 258 (Tex. Civ. App. --Beaumont 1931, no writ).

Viewed in this light, we think it is clear that the Legislature may authorize rural fire prevention districts to contract for the provision of services and facilities. Since a particular district, because of a shortage of manpower or funding, might not be able to provide necessary services without entering into such agreements, this authority is precisely the kind which might "effectuate the purpose of the granted power."

Subsection 6 presents a more difficult question, and its resolution depends upon whether the Legislature could reasonably conclude that the operation of an emergency ambulance service was a proper function of a rural fire prevention district. A recent decision upholding the authority of the City of Corpus Christi to enter into the operation of a public ambulance service observed that

[t]he institution of an emergency ambulance service is . . . a service kindred to the police or fire service. This type of service is incident to the police power of the state: i. e., to protect the health, safety, and general welfare of its citizens. Ayala v. City of Corpus Christi, 507 S. W. 2d 324, 328 (Tex. Civ. App. --Corpus Christi 1974, no writ hist).

In Attorney General Opinion C-759 (1966), this office ruled that a hospital district was authorized to establish an emergency ambulance service. The relevant statute, article 4494n, V. T. C. S., provided that a hospital district might operate "hospital facilities and systems for the maintenance of hospitals . . . and any and all other facilities and services the hospital district may require . . ." From this general grant of power, the Opinion declared, it was reasonable to infer the district's authority to operate an emergency ambulance service, since such a service, "while not exclusively a hospital service, is sufficiently related to the effective and efficient operation of a hospital as to be within the authority of the Board of Managers of the District to acquire and operate in carrying out its duties within the District."

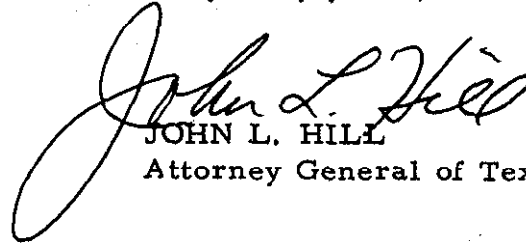
Bearing in mind that "a constitutional provision is to be construed liberally and in an equitable manner so as to carry out the great principles of government for the benefit of people." [Edwards v. Murphy, 256 S. W. 2d 470 (Tex. Civ. App. --Ft. Worth 1953, writ dismd); Great Southern Life Ins. Co. v. Austin, 243 S. W. 778 (Tex. Sup. 1922)], we cannot say that it is impermissible for the Legislature to conclude that the operation of an emergency ambulance service was a proper function of a rural fire prevention district and sufficiently related to the effective operation of the district as to be within its authority.

SUMMARY

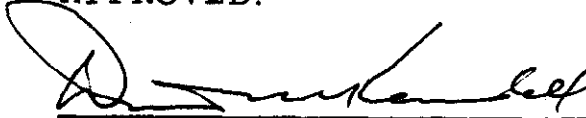
Subsections 3 and 6 of article 2351a-6, section 11, V. T. C. S., are constitutional, and as a result, the Legislature may authorize rural fire prevention

districts to provide emergency ambulance service and to enter into contracts for the provision of services and facilities.

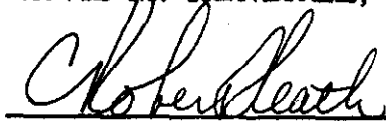
Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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