



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

April 25, 1988

Honorable Chet Brooks
Chairman
Health and Human Services Committee
Texas State Senate
P. O. Box 12068
Austin, Texas 78711

LO-88-46

Dear Senator Brooks:

Thank you for your letter, dated March 21, 1988, in which you ask three questions relating to the Greater Harris County 9-1-1 Emergency Network (the Network). The Network is an emergency communication district established pursuant to Acts 1983, 68th Legislature, chapter 97 (article 1432c, V.T.C.S.). All three questions revolve around the authority of the Network to expand the area in which it provides 9-1-1 emergency telephone service by means of an interlocal agreement with Fort Bend County.

The Interlocal Cooperation Act (article 4413(32c), V.T.C.S.) authorizes a local governmental entity to perform governmental functions and services for another local governmental entity by means of a contract executed under the terms of the act. Both counties and special districts are included in the definition of "local government" in section 3(1) of that act and are generally authorized to execute interlocal agreements under its terms. However, section 4(b) requires that all parties to a contract for the performance of governmental functions or services be authorized to perform those functions or services. Attorney General Opinion Nos. JM-891 (1988); H-392 (1974); H-28 (1973).

In Attorney General Opinion JM-891 (1988), this office discussed the authority of an emergency communication district to provide 9-1-1 service under contract with a county. In that opinion we discussed the general disability of counties to perform functions and provide services except those expressly authorized by the constitution or by statute. We found authorization for a county to provide 9-1-1 service only in article 1432g, V.T.C.S., which applies to certain counties with a

population of more than 1.5 million. Such authority is a pre-requisite of an interlocal agreement under article 4413(32c). Fort Bend County (popl. 188,200) does not come within the terms of article 1432g and cannot provide the service itself; thus, Fort Bend County cannot contract for the provision of the service.

The brief prepared by the Network and submitted with your request suggests that an agreement between the Network and Fort Bend county is authorized by a reconciliation of the Network's enabling act (article 1432c, V.T.C.S.) and article 1432f, V.T.C.S. The latter statute establishes a broad plan to provide 9-1-1 emergency service throughout the state. That plan requires each regional planning commission in the state (established pursuant to chapter 391 of the Local Government Code) to develop a plan for the establishment of 9-1-1 service in its region and submit that plan to the Advisory Commission on State Emergency Communications. Section 5(b), article 1432f, provides general guidelines and requirements relative to the development of regional 9-1-1 service plans, including encouragement of interlocal contracts and preference "to administration by and expansion of the area served by the [emergency communication] districts." However, we do not find express authority for a county to establish 9-1-1 service or to receive such service under contract with an emergency communication district. The terms of that act apply to the development of plans by regional planning commissions and the submission of those plans to and approval of those plans by the Advisory Commission on State Emergency Communications. Furthermore, subdivision 4(c) of that act provides:

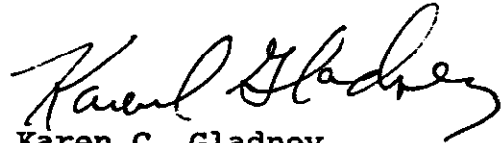
(c) Except as expressly provided by this Act, this Act does not affect the existence or operation of an emergency communication district or prevent the addition of territory to the area served by an emergency communication district as permitted by law.

While it is clear that the legislature intended to provide for the establishment of 9-1-1 service generally in the state, and there are persuasive practical arguments in favor of the Network providing the service to neighboring counties, we do not find the necessary express authorization for a county, other than one included by article 1432g, to provide the service or to contract for its provision.

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Although Fort Bend County is not authorized to receive 9-1-1 service under contract with the district, the service could be provided to that county and others in the region under a plan developed by the regional planning commission and approved by the Advisory Commission on State Emergency Communications. As noted above, section 5(b), article 1432f gives preference to expansion of the area served by emergency communication districts in the development of a regional 9-1-1 service plan.

Yours very truly,



Karen C. Gladney
Assistant Attorney General
Opinion Committee

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