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**JOHNSON COUNTY
BILL MOORE
COUNTY ATTORNEY**

September 21, 2023

Office of the Attorney General
Attn: Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548
Via Email: opinion.committee@oag.texas.gov

Re: Request for Attorney General Opinion regarding whether Johnson County Emergency Services District No. 1 may operate a county-wide ambulance service.

Dear Opinion Committee:

The Johnson County Attorney's Office requests your formal opinion regarding whether Johnson County Emergency Services District No. 1 may operate a county-wide ambulance service.

Johnson County currently provides county-wide ambulance service through a contract with an ambulance provider. Johnson County and Johnson County Emergency Services District No. 1 ("ESD") are currently discussing whether the ESD may operate the county-wide ambulance service by purchasing equipment and hiring staff or contracting with an ambulance provider. Per article III, Section 48-e of the Texas Constitution and Section 775.031 of the Texas Health and Safety Code, it appears that an emergency services district may operate a county-wide ambulance service and purchase equipment and hire staff or contract with a private company.

Rural Fire Prevention Districts

In 1949, Texas voters adopted article III, Section 48-d of the Texas Constitution, empowering the Legislature to "provide for the establishment" of rural fire prevention districts by authorizing a tax on the ad valorem property within the district not to exceed three cents per one-hundred dollars valuation.¹ On November 6, 1956, Johnson County voters authorized the creation of a single, county-wide rural fire district. My office and attorneys for the ESD have thus far been unable to locate the original petition to review its contents. In 1975, Texas Attorney General Opinion H-562 concluded, ". . . 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 [rural fire prevention] district as to be within its authority."² In 2003, Senate Bill 1021 added

¹ TEX. CONST. art. III, § 48-d (repealed 2003).

² Tex. Att'y Gen. Op. No. H-562 (1975) at 2529.

Section 775.026 of the Texas Health and Safety Code which converted rural fire prevention districts to emergency services districts operating under the chapter.³ Johnson County's rural fire prevention district thereby became "Johnson County Emergency Services District No. 1."

Emergency Services Districts

On September 13, 2003, the Legislature repealed article III, Section 48-d of the Texas Constitution.⁴ Article III, Section 48-e of the Texas Constitution, adopted in 1987, permits the creation of emergency services districts and authorizes commissioners courts to levy a tax on the ad valorem property in the district not to exceed ten cents per one-hundred dollar valuation.⁵ Section 48-e further authorizes emergency services districts to, *inter alia*, provide emergency medical services, emergency ambulance services, or other emergency services authorized by the Legislature.⁶ Furthermore, in Section 775.031 of the Texas Health and Safety Code, the Legislature empowered districts charged with provision of emergency services to, *inter alia*, purchase equipment and contract for the provision of such services.⁷

Per article III, Section 48-e of the Texas Constitution and Section 775.031 of the Texas Health and Safety Code, it appears the ESD may directly operate a county-wide ambulance service by hiring staff and purchasing equipment or contracting for the provision of such service. However, the ESD is questioning whether it has authority to operate a county-wide ambulance service because article III, Section 48-d of the Texas Constitution was in effect on when Johnson County voted to create a rural fire district and Section 48-d does not explicitly authorize provision of ambulance service.

I would greatly appreciate your attention to and consideration of this question.

Respectfully,



Bill Moore

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³ TEX. HEALTH & SAFETY CODE § 775.026 (2003).

⁴ TEX. CONST. art. III, § 48-d *repealed by* Acts 2003, 78th Leg., S.J.R. 45, § 1.

⁵ TEX. CONST. art. III, § 48-e (1987).

⁶ *Id.*; *See also* TEX. HEALTH & SAFETY CODE § 775.003 (effective Sept. 1, 1989) ("An emergency services district may be organized as provided by Article III, § 48-e, of the Texas Constitution, as proposed by S.J.R. No. 27, Acts of the 70th Legislature, Regular Session, 1987, and adopted by the voters at an election held November 3, 1987, and by this chapter *to protect life and health.*") (emphasis added); Tex. Att'y Gen. Op. No. JM-1129 (1989).

⁷ TEX. HEALTH & SAFETY CODE § 775.031(a), (a)(1), (a)(7) (effective Sept. 1, 1999).