

Warren Chisum  
STATE REPRESENTATIVE

COMMITTEES:  
Appropriations, Chair  
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## House of Representatives

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**DEC 19 2008**

**OPINION COMMITTEE**

December 15, 2008

FILE # ML-45943-08  
I.D. # 45943

The Honorable Greg Abbott  
Attorney General of Texas  
209 W. 14th Street  
Austin, Texas 78701

**RQ-0772-GA**

Re: Request for opinion regarding the ability of Hall County Hospital District to contribute funds for the construction of a building to house emergency service vehicles operated by a city.

Dear General Abbott:

As chair of the House Appropriations Committee, I request your opinion regarding whether the Hall County Hospital District can contribute funds to the City of Turkey for the construction of a building to house the city's emergency service vehicles.

The Hall County Hospital District is a political subdivision formed under Section 9, Article IX, Texas Constitution. (Acts 70th Leg., R.S., Ch. 1017, 1987.) Hall County has a population of 3,782 people, approximately 75 percent of whom are served by the county seat of Memphis and 25 percent of whom are served by the City of Turkey. Hall County does not have a hospital, and the hospital district contracts with Memphis and Turkey to provide mobile emergency medical services to district inhabitants. The hospital district divides tax revenue according to population, with 75 percent of the funds going to the Hall County Emergency Medical Services in Memphis and the remaining 25 percent going to the Turkey Emergency Medical Services.

The existing emergency service vehicles operate as "emergency clinics on wheels." These ambulances provide the only emergency care available to the inhabitants of Hall County. The closest hospital is located 43 miles from Hall County in Lockney, Texas. The emergency services provided by the cities can mean the difference between life and death when time is of the essence.

Turkey recently purchased a new ambulance, but the building that houses the ambulance is in severe disrepair and unsuitable for the district's needs of providing mobile emergency medical services to the area served by Turkey EMS. The cost of a new building to house the ambulance is estimated at \$110,000. The hospital district board would like to provide Turkey with a portion of the funds necessary to construct the building.

District 88: Armstrong, Bailey, Briscoe, Castro, Childress, Collingsworth,  
Donley, Gray, Hall, Hansford, Hemphill, Hutchinson, Lamb,  
Lipscomb, Ochiltree, Parmer, Roberts, Swisher, Wheeler

Section 5.02(1) of the Hall County Hospital District enabling legislation requires the district to assume full responsibility for furnishing medical care for the district's needy inhabitants. Section 5.02(3) of the enabling legislation grants the hospital district the authority to "operate or provide for the operation of a mobile emergency medical service." It is clear from the enabling legislation that the district has the authority to contract with the Cities of Turkey and Memphis for mobile emergency medical services. However, the legislation does not expressly confer the ability to grant tax revenue to the city for the construction of a building to house the emergency service vehicles. I ask for your opinion regarding whether the hospital district has inherent authority to contribute funds to the city for the construction of the building, given that a new building is necessary to accomplish the hospital district purposes of providing medical care to the district's needy inhabitants and providing for the operation of a mobile emergency medical service.

Attorney General Opinion No. DM-66 (1991) found that a hospital district possessed the express authority to construct a separate building on hospital grounds and lease the building to a private clinic that provided dialysis services to the hospital. In addition, the analysis found that the district's plan would "serve a 'hospital purpose'" consistent with the requirements of Section 9, Article IX, Texas Constitution, which charges the hospital district with the purpose of providing medical care, particularly medical care for the needy, and Sections 51 and 52, Article III, Texas Constitution, which generally prohibit the use of public funds for private purposes. Although in this case, the hospital district would contribute funds for a building to be owned and operated by a different political subdivision, the building itself is vital to the accomplishment of the district's purpose of providing medical care, including emergency care. Without a building, the Turkey EMS cannot operate efficiently and the inhabitants of the district might be denied access to vital medical care.

In addition, the contribution of the funds would not violate the requirements of Sections 51 and 52, Article III, Texas Constitution, which generally prohibit the use of public funds for private purposes. The Texas Supreme Court has prescribed a three-part test to determine whether a statute's grant of public resources violates this provision:

Specifically, the Legislature must: (1) ensure that the statute's predominant purpose is to accomplish a public purpose, not to benefit private parties; (2) retain public control over the funds to ensure that the public purpose is accomplished and to protect the public's investment; and (3) ensure that the political subdivision receives a return benefit. Tex. Att'y. Gen. No. GA-0546 (2007).

As stated above, the contribution of the funds will accomplish a public purpose of the hospital district. In addition, the district will retain public control over the contributed funds through the contract the hospital district has with the city for the provision of the mobile emergency medical services. Finally, the contribution of the funds will provide the district inhabitants a benefit that will not be available without the contribution.

The Honorable Greg Abbott  
November 21, 2008  
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Thank you very much for your consideration of these matters. Please do not hesitate to contact me if you have any questions or need additional information.

Respectfully yours,

A handwritten signature in cursive script that reads "Warren Chisum".

Warren Chisum, Chair  
House Appropriations Committee

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