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## Question Submitted by: The Honorable Roy Boatner, Oklahoma State Senate

1986 OK AG 27

Decided: 07/30/1986

Oklahoma Attorney General

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Cite as: 1986 OK AG 27, \_\_ \_\_

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¶0 The Attorney General has received your request for an official opinion asking, in effect:

1. **May a Rural Ambulance Service District borrow money or encumber funds not on hand and not projected as available during the fiscal year?**
2. **Who may authorize and who is legally responsible for the indebtedness. Could the board members be personally liable?**
3. **Is a Rural Ambulance Service District subject to the Open Meeting Act?**
4. **When must a financial audit of a Rural Ambulance Service District be performed and who is responsible for causing the audit to be performed?**

I

¶1 Your first question raises the issue of whether Rural Ambulance Service Districts are subject to the provisions of Article X, Section 26 of the Oklahoma Constitution which prohibits the incurrence of future debts of political corporations or subdivisions of the State. Therefore, the legal status of the districts must be considered in order to determine whether that constitutional provision applies.

¶2 Rural Ambulance Service Districts are created pursuant to 19 O.S. 1201 et seq. (1981). These districts are created upon petition to the Board of County Commissioners by two or more rural residents. 19 O.S. 1204 (1981). The Commissioners, upon determination that a district should be created, are required to declare the area described in the petition to be incorporated. Immediately following incorporation a meeting of the residents of the district is required to select from among their number a board of directors and to adopt bylaws for governing and administering the affairs of the district. 19 O.S. 1207 (1981). The district is empowered to borrow money or otherwise contract for indebtedness for the purposes set forth in the Act. 19 O.S. 1209 (1981).

¶3 19 O.S. 1206(C) of the Act declares in part:

"Such districts shall not be political corporations or subdivisions of the state within the meaning of any constitutional debt limitations, nor shall said districts have any power or authority to levy any taxes whatsoever or make assessments on property, real or personal."

¶4 This exact language is also found in the Rural Water, Sewer, Gas and Solid Waste Management Act at 82 O.S. 1324.6 (1981). The functional provisions in that act are nearly identical to the Rural Ambulance Service District Act. In 1948, the Supreme Court examined the legal nature of these kinds of entities to determine whether they are subject to the debt

limitations of Article X , Section 26. *Armstrong v. Sewer Improvement District No. 1, Tulsa County*, 199 P.2d 1012 (Okl. 1948).

¶5 The Court ruled that the districts:

"are not organized for political or governmental purposes and do not possess political or governmental powers other than those necessary to carry out the specific purposes for which they are created. They are in no sense additions to or agencies in aid of the general government of the state, or in the aid of any governmental agencies or functions, but are purely for the purpose of promoting the welfare and benefit of the inhabitants of that particular district." 199 P.2d at 1014.

¶6 In *Public Service Co. of Okla. v. Northwest Rogers County Fire Protection District*, 675 P.2d 134 (Okl. 1984), the Court found that such special interest entities are not county or state governmental units. Rather, they are a form of legal public government and not directly an organ of the state or its political subdivisions. Rural Ambulance Districts are similarly formulated. It is the character of these entities that establishes their exclusion from constitutional debt limitations. They do not constitute political corporations or subdivisions of the state for purposes of Article X , Section 26, and, therefore, are not subject to the restrictions set forth in that provision. Thus, the district is not prohibited from borrowing money or encumbering funds for purposes set forth in the act, which are not projected as available during the fiscal year.

## II

¶7 Your second question asks who may authorize indebtedness for the district. Title 19 O.S. 1208 (1981) provides that the board shall be the governing body of the district and "shall adopt such rules and regulations in conformity with the provisions of this act and the bylaws of the district as are deemed necessary for the conduct of the business of the district." 19 O.S. 1209 sets forth the powers of the district which include the power to sue and be sued in its corporate name, to acquire property of any kind, to borrow money and otherwise contract indebtedness, and, in subsection (A)(9):

"To do and perform all acts and things, and to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purposes for which the district is created[.]"

¶8 19 O.S. 1209(A)(12) authorizes the district to determine and collect charges for the services performed. Reading these sections together, the responsibility for governing and administering the affairs of the district is reposed in the board of directors. Therefore, it is the directors who may authorize indebtedness for the district.

¶9 You also ask who is legally responsible for the indebtedness of the district. Pursuant to 19 O.S. 1210(A) and 19 O.S. 1210(B) (1981), each county in which a district is located and each incorporated town or city that is a party to the district must pay a proportionate share of its cost. 19 O.S. 1210(C) provides that expenses which are not paid from revenues collected pursuant to 19 O.S. 1209(A)(12), including operating and maintenance expenses and adequate reserves for the retirement of indebtedness and other obligations, shall be paid by the counties, cities and towns which are a part of the district. 19 O.S. 1210(D) provides:

"Any revenue received by the district shall be devoted, first, to the payment of operating and maintenance expenses and the principal and interest on outstanding obligations and, thereafter, to such reserves for improvements, retirement of indebtedness, new construction, depreciation and contingencies as the board of directors may from time to time prescribe."

¶10 These provisions set forth a mechanism from which the district receives funding and pays its indebtedness. Thus, the district is responsible for its indebtedness.

¶11 Because the Rural Ambulance District is an incorporated entity, the members of the board of directors act on the district's behalf and not in their personal capacities. They would not, therefore, be held personally liable for its indebtedness absent actual fraud or bad faith.

### III

¶12 Your third question asks whether a Rural Ambulance Service District is subject to the Open Meeting Act. That Act, 25 O.S. 301 et seq. (1981), was enacted for the public's benefit and is construed liberally in favor of the public. *International Association of Firefighters v. Thorpe*, 632 P.2d 408 (Okl. 1981).

¶13 Except for a few narrowly prescribed exceptions, the Open Meeting Act applies to all meetings of *public bodies*. *In the Matter of the Appeal of the Order Declaring Annexation*, 637 P.2d 1270 (Okl. App. 1981). 25 O.S. 304 defines "public bodies" and states in pertinent part:

" 'Public body' means the governing bodies of all municipalities located within the State of Oklahoma, boards of county commissioners of the counties in the State of Oklahoma, boards of public and higher education in the State of Oklahoma and all boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups in the State of Oklahoma supported in whole or in part by public funds or entrusted with the expending of public funds, or administering public property, and shall include all committees or subcommittees of any public body. It shall not mean the state judiciary or the State Legislature or administrative staffs of public bodies, including but not limited to, faculty meetings and athletic staff meetings of institutions of higher education, when said staffs are not meeting with the public body or entry-year assistance committees, as defined in 70 O.S. 6-152 of the Oklahoma Statutes."

¶14 Although entities such as Rural Ambulance Service Districts are not specifically mentioned in this section, the board of directors of such districts are "entrusted with the expending of public funds" and would come within the meaning of a public body for purposes of the Open Meeting Act.

### IV

¶15 In regard to financial audits of the district, your fourth question is answered in 19 O.S. 1216 (1981) which provides in relevant part:

"The board of directors shall cause an annual audit of the district's records and accounts to be made, and shall make a report on said matters at each annual meeting."

¶16 Where language of a statute is plain and unambiguous, and its meaning is clear the statute will be afforded the meaning as expressed by the language therein employed. *Cave Springs Public School District I-30 of Adair County v. Blair*, 613 P.2d 1045 (Okl.1980). The plain language of 19 O.S. 1216 requires that a financial audit must be made annually and that the board of directors is responsible for causing the audit to be performed. The statute requires that a report on the audit shall be made at each annual meeting. Therefore, the audit would need to be made prior to such meeting so that it can be presented at that time.

¶17 It is, therefore, the official opinion of the Attorney General that:

1. Rural Ambulance Service Districts, created pursuant to 19 O.S. 1201 et seq. (1981), are not political corporations or subdivisions of the state and are not subject to constitutional debt limitations of Article X, Section 26, therefore, they are not prohibited from borrowing money or encumbering funds for purposes set forth in the Act not projected as available during the fiscal year.
2. The board of directors of a Rural Ambulance Service District, which is responsible for governing and administering the affairs of the district, has the authority to authorize the incurring of indebtedness by the district. The directors, acting on behalf of the district, are not personally liable for such indebtedness, absent a showing of actual fraud or bad faith.
3. The board of directors of a Rural Ambulance Service District is entrusted with the expending of public funds and therefore constitutes a public body and is, therefore, subject to the Open Meeting Act.
4. Title 19 O.S. 1216 (1981) requires that a financial audit of the district must be made annually and that the board of directors of a Rural Ambulance Service District is responsible for causing the audit to be performed.

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ATTORNEY GENERAL OF OKLAHOMA  
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### **Citationizer<sup>®</sup> Summary of Documents Citing This Document**

Cite Name	Level
<b>Oklahoma Attorney General's Opinions</b>	
Cite	Name
<u>2020 OK AG 2,</u>	<u>Question Submitted by: The Honorable Ron Sharp, Oklahoma State Senator,</u>
	<u>District 17</u>
	Cited

### **Citationizer: Table of Authority**

Cite Name	Level
<b>Title 19. Counties and County Officers</b>	
Cite	Name
<u>19 O.S. 1201,</u>	<u>Short Title</u>
	Discussed
<u>19 O.S. 1204,</u>	<u>Petition for Creation of District - Contents</u>
	Cited
<u>19 O.S. 1206,</u>	<u>Determination by Board - Declaration of Incorporation</u>
	Cited
<u>19 O.S. 1207,</u>	<u>Board of Directors - Bylaws</u>
	Cited
<u>19 O.S. 1208,</u>	<u>Governing Body - Meetings - Vacancies - Rules and Regulations</u>
	Cited
<u>19 O.S. 1209,</u>	<u>Powers of District - Annual Report</u>
	Discussed at Length
<u>19 O.S. 1210,</u>	<u>Proportionate Payment of Costs</u>
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<u>19 O.S. 1216,</u>	<u>Operation and Repair of Equipment - Compensation - Budgets - Audits</u>
	Discussed at Length

**Title 25. Definitions and General Provisions**

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<u>25 O.S. 301,</u>	<u>Short Title</u>	Cited
<u>25 O.S. 304,</u>	<u>Definitions</u>	Cited

**Title 70. Schools**

Cite	Name	Level
<u>70 O.S. 6-152,</u>	<u>Repealed</u>	Cited

**Title 82. Waters and Water Rights**

Cite	Name	Level
<u>82 O.S. 1324.6,</u>	<u>Duties of Board of County Commissioners at Hearing - Declaration of Incorporation</u>	Cited