



STATE OF KANSAS

Office of the Attorney General

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VERN MILLER
Attorney General

January 6, 1975

Opinion No. 75- 6

Mr. Daniel D. Metz
Lincoln County Attorney
Lincoln, Kansas 67455

Dear Mr. Metz:

We have your request concerning the applicability of Chapter 110 of the 1974 Session laws to the setting of salaries of elected county officials as set forth in Chapter 361.

The county home rule act, as Chapter 110 is commonly called, empowers the counties to exercise home rule to determine their local affairs. This power is subject to some restrictions and limitations of which one is:

"First, counties shall be subject to all acts of the legislature which apply uniformly to all counties;. . ."

Thus, the first consideration is to determine whether the legislative act, i.e., Chapter 361, applies uniformly to all counties. The merest scan of the relevant section shows there is no uniform applicability since the legislature chose to make the salary determination dependent on various population groupings. Therefore, the provisions of Chapter 110 become operable.

Section 3(a) of the home rule act provides:

"Any county may by charter resolution elect in the manner prescribed in this section that the whole or any part of any act of the legislature applying to such county other than those acts concerned with those limitations, restrictions or prohibitions set forth in subsection (a) of section 2 of this act shall not apply to such county."

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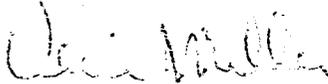
Subsection (b) provides the procedure to be followed for such charter resolutions. It is mandated that a charter resolution shall

"be so entitled, shall designate specifically the act of the legislature or part thereof made inapplicable to such county by the passage of the resolution and shall contain any substitute and additional provisions."

We feel this language, and the language of the act generally, empowers the commissioners to determine the salaries for the county officials without regard to whether such salaries will be lower or higher than those set in the statute from which the exemption is sought.

We hope this will be of assistance to you; however, if there are further questions, please contact us.

Yours very truly,



VERN MILLER
Attorney General

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