



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

May 6, 1975

Opinion No. 75- 204

Mr. Don Vsetecka
Finney County Attorney
Finney County Courthouse
Garden City, Kansas 67846

Dear Mr. Vsetecka:

You inquire concerning K.S.A. 19-1202, which states thus:

"The register of deeds may appoint a deputy, who shall hold his office during the pleasure of the register. Such appointment shall be in writing, filed and recorded in the office of said register; and the register so appointing him, and his sureties, shall be responsible for the faithful performance of his duties by such deputy." [Emphasis supplied.]

You inquire whether this statute authorizes the appointment of only one deputy, or whether the register is authorized by this provision to appoint as many deputies as may be necessary properly to discharge the duties of the office. You indicate that the Register of Deeds of Finney County wishes to appoint a second deputy due to the increasing workload in that office, and determination of the authority to do so has called into question the quoted statute.

K.S.A. 28-167 states thus:

"When in any county having a population of not more than one hundred thousand (100,000) it is necessary, the board of county commissioners

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shall allow such reasonable sums for assistants, deputies, clerical and stenographic hire as may be necessary to properly expedite the business of the offices of the county attorney, county clerk, county treasurer, clerk of the district court, probate judge, register of deeds, sheriff and county superintendent of public instruction."

This statute operates only to authorize the board of county commissioners to pay compensation and salaries of such persons as may be lawfully employed. Where a statute specifically authorizes a county officer to appoint one or more deputies, K.S.A. 28-167 authorizes payment of their compensation. In addition, under K.S.A. 28-167, the board may pay compensation to such additional clerical and other personnel as are necessary properly to expedite the business of the various county officers.

Where powers are by law vested in a county officer, those powers may be exercised in the name of that officer only by such deputies as are expressly authorized by law for that purpose. Statutes pertaining to other county officers are less restrictive. E.g., K.S.A. 19-302 and -1303 authorize the county clerk and clerk of the district court to employ more than one deputy. Express authority is provided for certain counties to employ assistant and deputy county attorneys. K.S.A. 19-706b. By contrast, K.S.A. 19-503 authorizes the county treasurer to appoint only one deputy.

K.S.A. 19-1202 is relatively clear and unambiguous, and must be interpreted, in our opinion, precisely as it reads. However, in our judgment, authority to employ additional deputies may be furnished by a resolution adopted pursuant to K.S.A. 19-101a(b), which commences thus:

"Counties shall apply the powers of local legislation granted in subsection (a) of this section by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) of this section and the local legislation proposed under the authority of such subsection is not contrary to any act

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of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper." [Emphasis supplied.]

While authority exists for appointment of one deputy, no authority exists for additional deputies. The appointment of additional deputies is not, in our opinion, contrary to K.S.A. 19-1202, but merely supplemental or additional thereto.

Accordingly, we suggest that if an additional deputy is needed by the register of deeds, that authority for that appointment be provided by resolution adopted pursuant to K.S.A. 19-101a(b).

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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