



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

December 10, 1975

ATTORNEY GENERAL OPINION NO. 75- 451

The Honorable Bill McCormick
Mayor of Topeka
City Building
215 East 7th
Topeka, Kansas 66603

Re: Cities--Cash-Basis Law--Memoranda of Agreement

Synopsis: Execution of a memorandum of agreement which prescribes the rates of wages and salaries to be paid as compensation to officers and employees of the city police department does not in and of itself create any indebtedness against the City, and hence gives rise to no question whether the agreement itself complies with the Kansas cash-basis law.

* * *

Dear Mayor McCormick:

You advise that the City of Topeka has negotiated a memorandum of agreement with the Fraternal Order of Police, Topeka, Lodge No. 3, and that the question has been raised whether the agreement entails violations of the Kansas cash-basis law, K.S.A. 1974 Supp. 10-1101 *et seq.*

The term of the agreement is "for the period commencing at 0001 January 1, 1976 and ending at 2400 December 31, 1977," and is subject to extension at the option of the parties until December 31, 1978.

Article III sets forth the basic wage for members of the department holding job classifications enumerated therein. Article IV, section I, sets forth available merit increases to be awarded to

The Honorable Bill McCormick
Page Two
December 10, 1975

eligible officers in 1976 and 1977. Under section III of this article, the city agrees to provide funds from property tax and sales tax revenues, and perhaps from general revenue sharing proceeds. (Interlineation of the copy of the agreement we have been furnished makes the latter unclear.) Article VI sets forth further merit increases to be awarded December 31, 1977, and in 1978 if the agreement is extended as provided therein.

Apparently, the concern has been expressed that execution of the contract operates to incur an indebtedness in violation of the cash-basis law. K.S.A. 1974 Supp. 10-1113 provides that it shall be unlawful to create

"an indebtedness in excess of the amount of funds actually on hand in the treasury of such municipality at the time for such purpose."

The agreement itself incurs no indebtedness whatever, in my judgment. It does establish, of course, the rates of compensation to be paid by the city when and as wages and salaries become due to those officers and employees of the Department included thereunder. It is well settled in this state that absent a stipulation to the contrary, the right to payment for services performed under a contract does not accrue until the services are fully performed and the contract completed. In this instance, for example, no indebtedness accrues against the city to any officer or employee of the department under this agreement until services are rendered for each pay period. At the end of the agreed-upon pay period, each officer and employee covered thereby has a claim against the city for payment of compensation at the rates fixed in this agreement. Execution of the agreement itself, however, creates no indebtedness itself, but merely prescribes the rates of compensation to be paid as wages and salaries when payment thereof falls due to officers and employees of the department covered by the agreement.

Accordingly, I can but conclude that execution of the agreement itself gives rise to no indebtedness whatever under the Kansas cash-basis law.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj