



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 3, 1976

ATTORNEY GENERAL OPINION NO. 76- 169

The Honorable Harrison Smith
Probate Judge
Finney County Courthouse
Garden City, Kansas 67846

Re: Probate Code--Probate Judge--Compensation and Salary

Synopsis: Compensation and salary for the probate judge is qualified by the population of the county in which he or she resides, and the amount therefor becomes effective on the date the change of population is reported pursuant to K.S.A. 11-101.

* * *

Dear Judge Smith:

You have requested an opinion from this office inquiring as to the effective date of the compensation and salary change pursuant to the provisions of K.S.A. 1975 Supp. 59-216. We are advised by the Finney County Assessor's Office which maintains a continuous register of the county's inhabitants pursuant to K.S.A. 11-101 that Finney County's population will exceed 24,000 inhabitants within the next few days. In light of this fact you ask specifically whether the statutory amounts for annual salary will increase at the time the new population figure is reported or whether such increase becomes effective the first of the year next following?

K.S.A. 1975 Supp. 59-216 provides in pertinent part:

"(a) In any county having a population of more than twenty-four thousand (24,000) and not more than thirty-three thousand (33,000), the probate judge shall receive as compensation

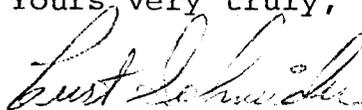
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for his service an annual salary in the
amount of twenty thousand dollars (\$20,000)
. . . ." [Emphasis supplied.]

As the language of the statute clearly reflects, the key to this salary increase pivots upon the population figure of the county, and not on any computation of time. We find no qualification of the statute's mandatory instruction that the salary shall be paid upon the requisite population figure.

Accordingly, it is the opinion of this office that probate judges serving in counties that experience an increase in population above the 24,000 population figure at any time during the year shall receive compensation pursuant to K.S.A. 1975 Supp. 59-216 immediately upon recordation of the current population change in the county assessor's office.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj