



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 22, 1976

ATTORNEY GENERAL OPINION NO. 76-183

Mr. Don J. Knappenberger
Stafford County Attorney
Stafford County Courthouse
St. John, Kansas 67576

Re: Courts--Salaries--Liability of County

Synopsis: Under section 43(c) of 1976 House Bill 2729, and section 1 of 1976 House Bill No. 3153, the board of county commissioners is given discretionary power in each instance to approve or disapprove all or any part of the amount fixed by the administrative district judge to be paid from the county general fund as compensation to associate district judges, district magistrates, and clerks of the district court.

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Dear Mr. Knappenberger:

Section 43(c) of 1976 House Bill 2729 states thus:

"In addition to the salary authorized by subsection (a) or (b) an associate district judge or district magistrate judge may receive from the county general fund in which such judge is regularly assigned, such additional compensation as may be recommended by the administrative district judge of the judicial district, subject to the approval of the board of county commissioners of such county."

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You inquire whether under this section, the board of county commissioners is required to approve the salary payable from the county general fund which is fixed by the administrative district judge, or whether the board of county commissioners is vested with discretion to approve or disapprove payment from the county general fund of all or any part of the amount payable therefrom as fixed by the administrative district judge. In my opinion, the board of county commissioners is vested with discretion to approve or disapprove payment from the county general fund of all or any part of the amount fixed by the administrative district judge to be paid therefrom.

Similarly, in my judgment, the board of county commissioners is vested with discretion to approve or disapprove the salary to be paid the clerk of the district court pursuant to section 1 of 1976 House Bill No. 3153, which states thus:

"Except as otherwise provided by law, the clerk of the district court in each county of this state shall receive an annual salary in an amount to be fixed by the administrative judge of the judicial district in which such county is located, subject to the approval of the board of county commissioners of said county. Such salaries shall be paid from the county treasury in equal monthly installments."

I find no language in either of these sections which supports the conclusion that approval by the board of county commissioners in either instance is merely formal and ministerial in nature. The amounts in question are to be paid from the county general fund, and the board of county commissioners was intended to be, and was indeed, given a voice in the amount for which the county would be liable in each instance.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj