



STATE OF KANSAS

## Office of the Attorney General

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Curt T. Schneider  
Attorney General

June 24, 1977

ATTORNEY GENERAL OPINION NO. 77- 211 .

Mr. Jerry Powell  
Executive Director  
Kansas Public Employee Relations Board  
701 Jackson  
Topeka, Kansas 66603

RE: Public Officers and Employees -- Public  
Employer-Employee Relations Act --  
Recognition Procedure

SYNOPSIS: An election by public employers, other than the state and its agencies, to bring the employer under the act is required before the provisions of K.S.A. Supp. 75-4329 apply.

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Dear Mr. Powell:

We have your letter of May 24, 1977. You inquire relative to the applicability of the provisions of K.S.A. Supp. 75-4329 to public employers, other than the state, where no election has been made to bring the employer under the provisions of the act. K.S.A. Supp. 75-4321(5)(c) provides:

"The governing body of any public employer, other than the state and its agencies, by a majority vote of all the members may elect to bring such public employer under the provisions of this act, and upon such election the employer and its employee shall be bound by its provisions from the date of such election. Once an election has been made to bring the public employer under the provisions of this act it continues in effect unless rescinded by a majority vote of all members of the governing body. No vote to rescind shall take effect until the termination of the next complete budget year following such vote."

Mr. Jerry Powell  
June 24, 1977  
Page Two

You direct our attention to K.S.A. Supp. 75-4329, which provides:

"Every public agency, other than the state, acting through its governing body, may establish procedures, not inconsistent with the provisions of sections 7(75-4327) and 8(75-4328) of this act and, after consultation with interested employee organizations and employer representatives, may resolve disputes concerning the recognition status of employee organizations composed of employees of such agency. In the absence of such procedures, such disputes shall be submitted to the public employee relations board in accordance with section 7(75-4327) of this act."

In an opinion issued by this office to you dated March 18, 1976, we concluded:

"In light of the foregoing we are constrained to the view that the provisions of the act are not to be expanded beyond its clearly expressed terms."

As to local units of government, K.S.A. Supp. 75-4321(5)(c) set out above, clearly conditions jurisdiction of the board and indeed the applicability of the act itself to the employer-employee relations of local units of government after the election to come under the law is unequivocally made by the governing body. In construing the provisions of K.S.A. 75-4335 we stated:

"This section, in our opinion, should not be read as implying the laws application to public employers or employees other than the state without the election discussed above. The section merely allows for local legislation and substitution of provisions by local governing bodies after the election to come under the act has been made."

In our opinion, K.S.A. Supp. 75-4329 is nothing more than a continuation of the manifest legislative policy to insure local units of government a full measure of local autonomy. (See K.S.A. 75-4323(e)). There is no indication that K.S.A. 75-4329 deals with a subject more unique than other sections of the act, all of which require the election to come under the act. Certainly we must conclude as we did in our earlier

Mr. Jerry Powell  
June 24, 1977  
Page Three

opinion that as to employers, other than the state, an unequivocal election is required.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Curt Schneider".

CURT T. SCHNEIDER  
Attorney General

CTS:DRH:gw