ATTORNEY GENERAL OPINION NO. 77-365

The Honorable Patrick B. Augustine
State Representative
713 Ross Street
Ellis, Kansas 67637

Re: County Treasurer--Employees--Status

Synopsis: Employees in the motor vehicle department of a county treasurer are not state employees, but rather employees of the county treasurer. Such employees may appropriately be included in a county union contract, with the cooperation of the county treasurer, notwithstanding they are not paid from funds budgeted and thereby appropriated by the board of county commissioners.

Dear Representative Augustine:

You inquire concerning employees of the motor vehicle department of the Ellis County treasurer, whose salaries are paid from funds appropriated to the treasurer from fees as prescribed by K.S.A. 8-145.

You inquire, first, whether these employees are indeed employees of the county treasurer or of the State of Kansas. The county treasurer is a county officer. In discharging the duties and responsibilities imposed on that office respecting the administration of the motor vehicle registration laws of the state, the county treasurer is engaged in the business of the state, and specifically the business of the Division of Vehicles of the Department of Revenue, and not the business of the county. However, just as the county treasurer is not a state officer or
employee, deputies, assistants, clerks and others employed by
the county treasurer in the motor vehicle department are likewise
not state officers or employees. They remain employees of the
officer by whom they were employed, i.e., the county treasurer.

Secondly, you ask whether these employees are "covered by a county
union contract when they are not county employees and are not
paid for by county money." It is unproductive and somewhat mis-
leading to attempt to categorize these employees as county em-
ployees or as not county employees. They are paid from funds
appropriated to a county official, the county treasurer, by opera-
tion of law, specifically K.S.A. 8-145, and not from funds bud-
geted and thereby appropriated by the board of county commissioners.
By virtue of that appropriation, those funds become funds of the
county treasurer, and not of the state, although they are dedicated
to the administration of the motor vehicle registration laws,
i.e., the conduct of state business by a county official. The
revenue source for the salaries of these employees does not pro-
hibit their inclusion in an appropriate county employee contract,
which ordinarily must entail, of course, the cooperation of the
county treasurer. It is impossible for me to respond categorically
as a matter of law whether the existing employees are covered
by a particular contract, for I have no information regarding
the contract in question. However, in my judgment, these employees
might appropriately be included in such a contract.

Yours truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj