



STATE OF KANSAS

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Curt T. Schneider
Attorney General

May 23, 1978

ATTORNEY GENERAL OPINION NO. 78- 174

Mr. James W. Bibb
Director of the Budget
Department of Administration
1st Floor - State Capitol Building
Topeka, Kansas 66612

Re: Civil Service--Classified Employees--Basic Pay Plan

Synopsis: Section 1 of 1978 Senate Bill 857 establishes an increase of \$1,500 in each step of the basic civil service pay plan, which maximum increase applies to the aggregate annual increase authorized for each employee thereunder, rather than to monthly rates of compensation. The \$1,500 limitation applies to increases authorized by virtue of the 7 1/4% increase in the pay plan, and does not limit increases due to employees' changes in steps or ranges during the fiscal year.

* * *

Dear Mr. Bibb:

Section 1 of 1978 Senate Bill No. 857 states in pertinent part thus:

"Effective on the first day of the first payroll period chargeable to the fiscal year ending on June 30, 1979, the pay plan adopted by section 1 of chapter 144 of the 1977 Session Laws of Kansas is hereby modified and adopted as modified and shall provide for

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an increase of seven and one-quarter percent (7.25%), adjusted to the nearest dollar, but not exceeding one thousand five hundred dollars (\$1,500) in each step of such pay plan including the steps established in accordance with subsection (b) of said section 1 of chapter 144 of the 1977 Session Laws of Kansas." [Emphasis supplied.]

K.S.A. 75-2938 specifies that the director of personnel shall prepare a "pay plan which shall contain a schedule of salary and wage ranges and steps, and from time to time changes therein." You enclose copies of the Kansas State Civil Service Basic Salary Plan, including one effective for fiscal 1978, which indicates seven steps in each range. The salary for each step is stated at both a monthly and an annual rate. You advise, however, that the "building block" of the pay plan is the monthly rate, and it is from the monthly rate which the hourly minimum and annualized salary are arrived at. K.A.R. 1-4-6 states thus:

"The director shall assign each class of positions to one of the salary ranges and shall prepare schedules showing the salary range for each class, grade or group of positions in the classified service as assigned by him. These positions shall be the full-time monthly rates for all classes of positions in the classified and classified exempt service." [Emphasis supplied.]

You point out that in the past, the legislature has specified that authorized increases shall be per month in each step. For example, in ch. 144, L. 1977, the legislature provided "for an increase of three percent (3%) or twenty-five dollars (\$25) per month, whichever is the smaller amount, adjusted to the nearest dollar, in each step of such pay plan." [Emphasis supplied.] The 1976 legislature modified the pay plan to

"provide for an increase of two and eight-tenths percent . . . plus fifteen dollars (\$15) per month in each step of the pay plan" Ch. 380, § 15, L. 1976. [Emphasis supplied.]

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You indicate that the apparent intention of the legislature, as discerned from statements on the floor in discussion of the bill, was to limit the amount of the increase so that no individual would receive an increase in his or her aggregate annual compensation which exceeded \$1,500.

In State ex rel. Meyers v. Shawnee County Commissioners, 159 Kan. 87, 151 P.2d 700 (1944), the court stated thus:

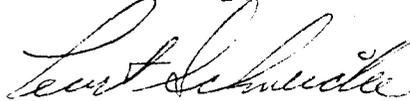
"When it is contended the terms of a statute are obscure or uncertain the cardinal rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature in enacting it governs when that purpose and intent is ascertainable from the language to be found therein." 159 Kan. at 89.

In providing that the authorized increase may not exceed \$1,500 "in each step," the question is presented what constitutes a "step," as the term is used in this provision. The term is not used in the Kansas Civil Service Act or in any related statutes concerning salaries of classified employees. It is used to describe graduations of salary within each range, and the term "step" appears in a formal sense only in the pay plan itself. Under each step heading, salaries thereunder are stated in columnar fashion, under headings of "Mo. Rate" and "Annual Salary." Assuming that the legislature had before it this basic salary plan, and used the term "step" by reference thereto, the term is ambiguous only in whether it describes a monthly or annual rate of compensation. It is another familiar canon of statutory construction in constructing a particular measure to presume that the legislature did not intend to enact ineffective or useless legislation. This presumed legislative intention is to be resorted to, of course, only when the meaning of a term is indefinite, ambiguous or uncertain. The uncertainty here relates to whether the term "step" refers to monthly or annual rates of compensation. According to my computations, the \$1,500 limitation would apply only to classified employees earning in excess of at least approximately \$240,000 per annum. The fact that the monthly rate is the basic "building block," as it were, used administratively in building the pay plan itself does not, in and of itself, provide definitive guidance in determining in which sense the legislature used the term. In my judgment, following the cited established rules of statutory construction, I am

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constrained to conclude that the \$1,500 limitation applies to the aggregate annual increases authorized under the bill, rather than to monthly rates of compensation. The \$1,500 limitation applies to increases authorized by virtue of the 7 1/4% increase in the pay plan, and does not limit increases due to employees' changes in steps or ranges during the fiscal year.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj