

STATE OF KANSAS

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June 20, 1978

ATTORNEY GENERAL OPINION NO. 78- 204

Mr. W. Keith Weltmer  
Secretary of Administration  
Department of Administration  
2nd Floor - State Capitol  
Topeka, Kansas 66612

Re: Courts--Personnel--Employer Contributions

Synopsis: The phrase "employer contributions for retirement" as it appears in section 1(a) and section 3(b) of 1978 Senate Bill 966 includes contributions both for Social Security benefits and employer contributions pursuant to the Kansas Public Employees Retirement Act.

\* \* \*

Dear Secretary Weltmer:

Section 1(a) of 1978 Senate Bill 966 provides for the assumption by the state of the salaries of all nonjudicial personnel of the district courts of the state, with exceptions not pertinent here. You inquire concerning the last sentence of this subsection, which provides thus:

"With regard to judicial and nonjudicial personnel of the district courts whose salary is payable by the state, the state shall provide for unemployment security coverage, *employer contributions for retirement*, workmen's compensation coverage, health insurance coverage and surety bond coverage." [Emphasis supplied.]

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Similar language appears in section 3, which describes the obligation of the counties to assist the state in paying the nonjudicial personnel costs to be borne by the state under section 1. In defining this obligation, the "base year court personnel costs" of each county is defined to be equal to that portion of the 1978 calendar year budget originally approved by the boards of county commissioners for compensation and employer's contributions for all such personnel, again with exceptions not pertinent here. The phrase "employer's contributions" is defined to mean

"the amount budgeted to provide for unemployment compensation coverage, *employer contributions for retirement*, workmen's compensation coverage, health insurance and surety bond coverage." [Emphasis supplied.]

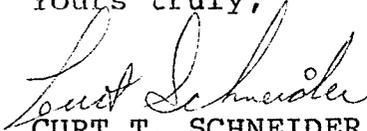
You request my opinion concerning the proper construction of the underscored language, "employer contributions for retirement," and specifically, whether it includes employer contributions for Old Age and Survivors' Insurance benefits pursuant to K.S.A. 40-2301 *et seq.* and employer contributions for retirement benefits under the Kansas Public Employees' Retirement System, pursuant to K.S.A. 74-4901 *et seq.*, or whether it refers only to contributions to the latter.

The underscored language is not free from ambiguity. Its scope must be resolved, so far as possible, by reference to the legislative purpose and other provisions of the act. Its purpose, as stated above, is to provide for assumption by the state, over several years, of the salaries of nonjudicial personnel of the district courts of the state. As a part of this assumption of costs, the state assumes the obligation of the employer contributions, as defined *supra*, respecting these employees. Given this legislative purpose and statutory scheme, there appears little reason to assume that the legislature intended purposely to assume the cost of employer contributions for retirement benefits under KPERS, unemployment compensation, workmen's compensation, health insurance and surety bond coverage, and intended to exclude therefrom a single other contribution, that for Social Security benefits. If the phrase "contributions for retirement," is used in a narrow and specialized sense, it may be argued, at least, that it is limited to KPERS contributions. However, it should be deemed to be used in its broader and more general sense, if to do so will comport with the apparent legislative purpose.

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In *Social Security Board v. Nierotko*, 327 U.S. 358, 90 L. Ed. 718 (1946), the Court observed that the "purpose of the Federal Old Age Benefits of the Social Security Act is to provide funds through contributions by employer and employee for the decent support of elderly workmen who have ceased to labor." 327 U.S. at 364. In short, it is a benefit designed to afford a minimum level of support upon the retirement of the workers who contribute to it. Social Security benefits are commonly, I think described as just that, and are not regularly described merely as retirement benefits. However, in my judgment, the phrase "retirement benefits" as used in the provisions quoted above, includes both contributions to the Kansas Public Employees Retirement System and contributions for Old Age and Survivors' Insurance under K.S.A. 40-2301 *et seq.*

Yours truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj