



STATE OF KANSAS

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ROBERT T. STEPHAN
ATTORNEY GENERAL

September 22, 1980

ATTORNEY GENERAL OPINION NO. 80-205

Mr. Jerry Abbott, Director
Kansas Department of Human Resources
Labor-Management Relations and Employment Standards
610 West 10th - 2nd Floor
Topeka, Kansas 66612

Re: Labor and Industries -- Payment of Wages -- Statute
Inapplicable to State and Local Governments

Synopsis: The Kansas Wage Payment Law, K.S.A. 1979 Supp. 44-313 et seq., does not apply to state and local governments since the definition of "employer" in the Act does not expressly include such governmental entities. Cited herein: K.S.A. 1979 Supp. 44-313.

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Dear Mr. Abbott:

You have requested this office to review and reconsider Attorney General Opinion No. 75-196 regarding the application of the Wage Payment Act, K.S.A. 1979 Supp. 44-313 et seq., to employees of the state and its political and taxing subdivisions. As you correctly note, the above cited opinion concludes that the Act is not applicable to public employees.

There have been no pertinent changes in the Act since 1975 to require such reconsideration. Article 3 of Chapter 44 was amended in 1976, but the definition of "employer" was not altered. In addition, no Kansas

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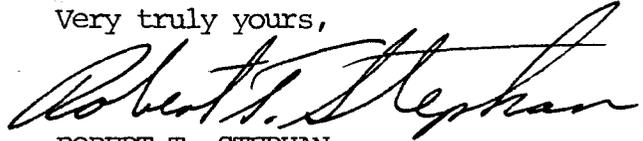
court has ruled contrary to the opinion of the former Attorney General. We note also that the former wage payment law, G.S. 1949, 44-301 et seq., which was repealed in the same Act which enacted the present provisions was interpreted by this office as not applying to "any state or municipal corporations." See Attorney General Opinion No. 62-23, Vol. III, Opinions of the Attorney General 549, 551 (Kansas 1962).

We know of no change in Kansas law which would suggest that the legal interpretation given the definition of "employer" in K.S.A. 1979 Supp. 44-313(a) for the past two decades should be reversed. The appropriate vehicle for such change is legislative enactment amending the definition section to specifically include the state and local governments within the meaning of the word "employer."

Short of statutory amendment, reversal of the two previous opinions of this office is legally unwarranted.

If we may be of further assistance in this or any other matter, please advise at your convenience.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Bradley J. Smoot
Deputy Attorney General

RTS:BJS:may