



STATE OF KANSAS

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December 12, 1985

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ATTORNEY GENERAL OPINION NO. 85- 171

Thelma L. Hagen
Trustee, Soldier Township
P.O. Box 2112
Topeka, Kansas 66601

Re: Cities and Municipalities--Miscellaneous Provisions--
Employee Benefits Contribution Fund in Certain Taxing
Subdivisions; Application to Township Officers

Synopsis: Township board members, as officers of the township,
are considered to be township employees for purposes
of K.S.A. 1984 Supp. 12-16,102. Township board
members are thus entitled to any employee benefits
as may be prescribed in the ordinance or resolution
of the township establishing such benefits, and may be
paid from an employee benefits contribution fund
created pursuant to K.S.A. 1984 Supp. 12-16,102.
Cited herein: K.S.A. 1984 Supp. 12-16,102; K.S.A.
13-14,100; 13-14,107; 13-14a02; 14-10a02; K.S.A. 1984
Supp. 40-2305; K.S.A. 44-505c; 44-710e; K.S.A. 1984
Supp. 74-4920, as amended by L. 1985, ch. 254, §13;
K.S.A. 1984 Supp. 74-4967.

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Dear Ms. Hagen:

As trustee of Soldier Township, you request our opinion regarding
the scope and application of K.S.A. 1984 Supp. 12-16,102.
Specifically, you question whether a township board member is
considered an employee for purposes of entitlement to the

employee benefits, such as health insurance, authorized to be paid from an employee benefits fund pursuant to K.S.A. 1984 Supp. 12-16,102.

The statute in question provides in pertinent part as follows:

"(a) Except as provided in this section, 'taxing subdivision' means any city, county, township, community junior college district or other political subdivision of the state of Kansas having authority to levy taxes on taxable tangible property. A school district shall be considered a taxing subdivision only for the purpose of making a levy for a recreation commission.

"(b) Any taxing subdivision may create and establish employee benefits contribution funds for (1) the taxing subdivision or (2) any political subdivision for which a tax is levied by such taxing subdivision for the purpose of paying the employer's share of any employee benefits, exclusive of any salaries, wages or other direct payments to such employees, as may be prescribed in the ordinance or resolution of the governing body creating such funds. The taxing subdivision may receive and place in such funds any moneys from any source whatsoever which may be lawfully utilized for the purposes stated in the ordinance or resolution creating such funds, including the proceeds of tax levies authorized by law for such purposes. . . ."

When this legislation was introduced in 1978 as Senate Bill No. 820, it was captioned as "An act relating to certain benefits for officers and employees of certain taxing subdivisions; authorizing the establishment of and payment of certain benefits from employee benefits contribution funds. . . ." 1978 Senate Journal, p. 831. (Emphasis added.) This language indicates that the legislature intended the statute to encompass township officers as well as other township employees.

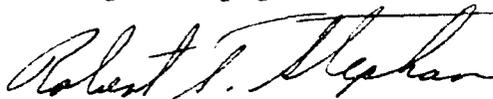
The following statutes were amended coincident with the passage of K.S.A. 1984 Supp. 12-16,102: K.S.A. 13-14,100; 13-14,107; 13-14a02; 14-10a02; K.S.A. 1984 Supp. 40-2305; K.S.A. 44-505c; 44-710e; K.S.A. 1984 Supp. 74-4920, as amended by L. 1985, ch. 254, §13; and 74-4967. Each of these statutes allows the state or taxing subdivision to combine the respective employee benefits

in one fund and levy just one tax to pay the employer's share of those benefits offered by the employer, instead of levying a separate tax for each benefit. The chapters in which these sections are found, with one exception, contain no definition of the term "employee." The sections which precede and follow each of the listed statutes, however, appear to entitle officers to the respective employment benefits.

For example, K.S.A. 1984 Supp. 74-4902(14) defines "employee" as "any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, . . ." Further, "eligible employer" is defined at K.S.A. 1984 Supp. 74-4902(13) as "the state of Kansas, and any county, city, township, special district. . . ." Both of these definitions make it clear that a township board member, as an officer of the township, is considered to be an employee of that township, at least for purposes of the Kansas Public Employees' Retirement System, K.S.A. 74-4901 et seq. It is our opinion that township board members, as officers of that township, should similarly be considered as employees for purposes of receiving employee benefits paid from an employee benefits fund pursuant to K.S.A. 1984 Supp. 12-16,102.

In conclusion, township board members, as officers of the township, are considered employees, and therefore are entitled to such employee benefits as may be designated for them in the ordinances or resolutions of the township creating the employee benefits. Such benefits may be paid from an employee benefit contribution fund created pursuant to K.S.A. 1984 Supp. 12-16,102.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Assistant Attorney General