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ATTORNEY GENERAL OPINION NO. 91- 83

Fred W. Rausch, Jr.
Unified School District Counsel
Suite 201, Ambassador Building
220 S.W. 33rd Street
Topeka, Kansas 66611

Re: Schools--Teachers' Contracts; Continuing Contract
Law--Contracts Bind Both Teachers and Board of
Education; Insufficient Budget, Effect

Synopsis: Those individuals whose contracts of employment may
be voidable pursuant to K.S.A. 1990 Supp. 72-5412
are teachers, supervisors, principals,
superintendents and other professional employees
who are required to hold a teacher's or school
administrator's certificate in any public school.
Cited herein: K.S.A. 72-5410; 72-5411; K.S.A. 1990
Supp. 72-5412.

* * *

Dear Mr. Rausch:

As attorney for several unified school districts, you request
our opinion regarding whether certain provisions of K.S.A.
1990 Supp. 72-5412 are applicable to the contracts of
employment of non-teacher and non-professional employees of a
unified school district, thereby making such contracts
voidable under designated circumstances.

Article 54 of chapter 72 of the Kansas Statutes Annotated is
entitled "Teachers' Contracts." The statutes contained
therein are under the following subheadings: (1) continuing

contract law; (2) supplemental contacts; (3) professional negotiations; (4) due process procedure; contract termination; and (5) administrators; contracts; nonrenewal procedure. K.S.A. 1990 Supp. 72-5412 is included in the continuing contract law.

Those statutes comprising the continuing contract law were originally enacted in 1951. L. 1951, ch. 413. The three statutes enacted in L. 1951, ch. 413 presently appear as K.S.A. 72-5410, K.S.A. 72-5411 and K.S.A. 1990 Supp. 72-5412. K.S.A. 72-5410 provides definitions for teacher, governing body and board of education. The dates for notification of intent to terminate or discontinue the contracts of employment of teachers are set forth in K.S.A. 72-5411. K.S.A. 1990 Supp. 72-5412 then states in part:

"All contracts shall be binding on both the teacher and board of education of the school district until the teacher has been legally discharged from such teacher's position or until released by the board of education from such contract. . . . Notwithstanding the foregoing provisions of this section, any contract of employment made by the board of education of any school district prior to the public hearing on the budget of such school district shall be voidable in case adequate funds are not available in such budget for the compensation provided for in such contracts."

The interpretation of a statute is a question of law and it is the function of the court to interpret the statute, giving it the effect intended by the legislature. U.S.D. No. 279 v. Sec'y of Kansas Department of Human Resources, 247 Kan. 519, 524 (1990). In construing statutes, the legislative intent must be determined from a general consideration of the entire act. State ex rel Stephan v. Kansas Racing Commission, 246 Kan. 708, 719 (1990). If possible, effect must be given to all provisions of the act and different provisions must be reconciled in a way that makes them consistent, harmonious and sensible. Id. Though the heading or title given an act of the legislature forms no part of the statute itself, the language of the title cannot be ignored as an aid in determining legislative intent. Arredondo v. Duckwall Stores, Inc., 227 Kan. 842, 846 (1980).

The original enactment of K.S.A. 1990 Supp. 72-5412 occurred in 1951 in an act titled as:

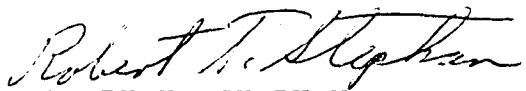
"An Act relating to schools, providing for the extension and continuation of employment contracts of teachers and certain other school employees, and providing penalties for violation of contract." L. 1951, ch. 413. (Emphasis added.)

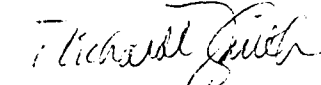
The only indication of who the certain other school employees subject to the act may be is the definition of teacher provided in L. 1951, ch. 413, § 1. The definition states that the term teacher includes "teachers, supervisors, principals, superintendents and any other professional employees who are required to hold a teacher's or school administrator's certificate. . . ." L. 1951, ch. 431, § 1. See also K.S.A. 72-5410.

The provision in question was added to the statute in "[a]n Act concerning public schools; teachers' certificates and contracts. . . ." L. 1969, ch. 317. The first six sections of L. 1969, ch. 317 address various aspects regarding certificates. Section 7 contains amendments to the definitions contained in the continuing contract law. Section 8 adds the provision stating that any contract of employment made by a board of education prior to the public hearing on the budget of the school district is voidable in case adequate funds are not available in the budget for the compensation provided for in such contract.

The intent of the legislature in enacting L. 1969, ch. 317, § 8 was to make voidable under specific circumstances the contracts of employment of those individuals designated as teachers pursuant to K.S.A. 72-5410. Those individuals whose contracts of employment may be voidable pursuant to K.S.A. 1990 Supp. 72-5412 are teachers, supervisors, principals, superintendents and other professional employees who are required to hold a teacher's or school administrator's certificate in any public school.

Very truly yours,


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