

Subject

*County Officers
Sheriff*

Copy to



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

October 11, 1974

Opinion No. 74- 339

The Honorable David P. Mikesic
Representative, 36th District
3116 West Barker Circle
Kansas City, Kansas 66104

Dear Representative Mikesic:

You advise that the sheriff of Wyandotte County has requested that the board of county commissioners take action to place officers and employees of the sheriff's department under a civil service system. You inquire whether such action is permitted in the exercise of county home rule powers under 1974 Senate Bill 175, appearing as chapter 110, L. 1974.

Section 2 of that bill provides in pertinent part thus:

"(a) Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions: First, counties shall be subject to all acts of the legislature which apply uniformly to all counties; . . ."

K.S.A. 19-4303 et seq. sets forth a civil service act applicable to the sheriff's offices in those counties enumerated in K.S.A. 19-4303 thus:

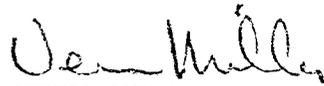
"Any county designated as an urban area county by the legislature pursuant to the provisions of section 17 of article 2 of the constitution of the state of Kansas, and any county having a population of more than three hundred thousand (300,000) and any county having a population of more than sixty-five thousand (65,000) and less than one hundred eighty thousand (180,000) shall be subject to the provisions of this act. Any county having a population of more than forty-five thousand (45,000) and less than one hundred thousand (100,000) and in which there is located an active military establishment may be subject to the provisions of this act

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upon the adoption of a resolution by the board of county commissioners of such county, electing to be subject to the provisions of this act."

Certainly, whether the officers and employees of the sheriff's office are covered under a civil service system is a matter of local concern, and may properly be determined in the exercise of the powers of "local legislation and administration" conferred upon counties by Senate Bill 175. The existing statutory authority for sheriff's civil service programs applies only to those counties falling within the scope of K.S.A. 19-4303. That act is uniformly applicable to all counties to which it applies, but it certainly does not apply "uniformly to all counties." (Emphasis supplied) Thus, there is no prohibition against the use of county home rule powers to establish a civil service system for the officers and employees of the sheriff's department.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:sg