



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

June 30, 1975

Opinion No. 75- 275

Mr. Alvin F. Grauerholz
City Commissioner of Coffeyville
716 Maple Street
Coffeyville, Kansas 67377

Dear Al:

You inquire, first, whether the assistant chief of police of the City of Coffeyville is subject to the statutes applicable to the Civil Service Commission of Coffeyville, K.S.A. 13-2285 to -22,104, inclusive. Application of the civil service act is prescribed by K.S.A. 13-22,100 as you point out, which provides in pertinent part thus:

"That all applicants for positions as members of the police department shall be required to submit to an examination for the positions of patrolmen, traffic and motor-cycle officers, guards and radio dispatch-operators and detectives. All other positions except the chief of police on such police department shall be filled by promotion only, by the governing body on the basis of merit, seniority, and personal record equally, without further civil service examination"

This act shall not apply to the position of chief of police, who shall hold his office at the will of the appointing authorities"

This act does not exempt the position of assistant police chief from its provisions. Accordingly, we cannot but conclude that when a vacancy occurs therein, it must be filled by appointment from a list of persons certified as eligible thereto prepared by the civil service commission.

Mr. Alvin F. Grauerholz
Page Two
June 30, 1975

Secondly, you inquire whether the city commission or the city manager is the appointing authority for the city chief of police. The question arises as a result of an apparent conflict between K.S.A. 12-1014 and -1015, defining the powers of the city manager, and references to the city commissioners as the appointing authority under the civil service act, K.S.A. 13-2285 *et seq.*

The civil service act was adopted, we understand, in or about 1949. Thereunder, K.S.A. 13-2297 provides thus in pertinent part:

"The civil service commission shall certify to the board of commissioners the names and addresses of double the number of applicants for each vacancy, standing highest upon the eligible list of the class or grade to which said position belongs, and the board of commissioners shall make appointments from such list so credited and not otherwise"

In 1963, we understand, the commission-manager form of government was adopted. Thereunder, the city manager assumed those powers described in K.S.A. 12-1014 thus:

"The manager shall be responsible for the administration of all of the affairs of the city. . . . He shall appoint and remove all heads of departments and all subordinate officers and employees of the city."

In addition, K.S.A. 12-1015 provides in pertinent part thus:

"Administrative departments shall be created by the commission as the public business may demand. Insofar as is possible and necessary, these departments shall be the following:

- (1) Department of law
- (2) department of service;
- (3) department of public welfare;
- (4) department of safety;
- (5) department of finance.

Mr. Alvin F. Grauerholz
Page Three
June 30, 1975

All appointments shall be made by the manager under the limitations herein provided."

Adoption of the commission-manager form of government in no way affected the civil service protection afforded members of the police department. K.S.A. 13-22,102. However, the city manager did succeed to the appointive powers respecting city officers and employees theretofore vested in the city governing body. Whereas, under K.S.A. 13-2297, the city commission made appointments to vacancies in the police department from an eligible list certified by the civil service commission, upon the adoption of the commission-manager form in 1963, the city manager succeeded to that appointive power.

The police chief, of course, is not subject to the provisions of the civil service act. As head of a city department, the position of chief is subject to appointment by the city manager under K.S.A. 12-1015.

If further questions remain concerning this matter, please do not hesitate to call upon us.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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