



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 2, 1978

ATTORNEY GENERAL OPINION NO. 78- 51

Ms. Dorothy K. White
Sedgwick County Clerk
Sedgwick County Courthouse
Wichita, Kansas 67203

Re: Counties--Home Rule--Personnel

Synopsis: K.S.A. 1977 Supp. 19-101a *et seq.*, granting the board of county commissioners power to transact county business, including personnel matters of the county, does not supersede or conflict with K.S.A. 19-302, which authorizes the county clerk to appoint a deputy. Such appointment must be made subject to applicable legislative and administrative directives of the county regarding county officers and employees, and the person so appointed is subject to such directives and policies. A resolution adopted by the Sedgwick County board of county commissioners December 14, 1977, relating to the adoption of classification and compensation plans and providing for the administration thereof, is not a charter resolution, and need not have been adopted as such.

* * *

Dear Ms. White:

You inquire, first, whether K.S.A. 1977 Supp. 19-101a *et seq.* supersedes K.S.A. 19-302. The latter provision provides in pertinent part thus:

"Every such [county] clerk shall appoint a deputy, in writing, under his hand, and shall file such appointment in his office,

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and such deputy, in case of the absence or disability of such clerk, or in case of vacancy in his office, shall perform all such duties of such clerk during such absence, or until such vacancy shall be filled."

K.S.A. 1977 Supp. 19-101a confers upon the county the power, to be exercised by the board of county commissioners,

"to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject to the following limitations"

(The enumerated statutory limitations are omitted here, for they are not pertinent to the question you raise.)

Your authority to appoint a deputy is statutory in nature. However, the board of county commissioners is empowered to adopt local legislation, regarding the conduct of county business, as it deems appropriate and necessary. The appointment of a county officer or employee, such as a deputy county clerk, who is paid from county funds and whose duty is to assist in the conduct of county business, is certainly properly a matter of "county business." In the adoption of personnel standards and policies of the county, the board of county commissioners is free, under K.S.A. 1977 Supp. 19-101a, to enact both legislative and administrative policies and directives governing that position. The board may thus require that the appointment of a deputy county clerk, and the person so appointed, be subject to those legislative and administrative policies and directives, and may properly incorporate the position in a county personnel plan or manual. The statutory power of appointment remains intact, subject, of course, in its exercise to local legislation enacted by the board.

You also ask whether a resolution enclosed with your letter, dated December 14, 1977, and adopted that date by the board of county commissioners of Sedgwick County, Kansas, is required to have been adopted as a charter resolution. It is titled thus:

"A Resolution of the board of county commissioners of Sedgwick County, Kansas, relating

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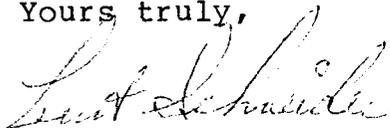
to the adoption of classification and compensation plans and their amendments, and providing for the administration thereof."

K.S.A. 19-101b(b) defines a charter resolution thus:

"A charter resolution is a resolution which exempts a county from the whole or any part of an act of the legislature and which may provide substitute and additional provisions on the same subject.

The resolution which you enclose does not exempt the county from any act of the legislature, and thus is not required to have been adopted as a charter resolution.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj