



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

June 16, 1978

ATTORNEY GENERAL OPINION NO. 78- 198

Ms. Vergie D. Wentz
Clerk of the District Court
Sheridan County Courthouse
Hoxie, Kansas 67740

Re: Courts--Budgets--Salaries

Synopsis: If the original 1978 district court budget as adopted by the board of county commissioners in 1977 does not include monies for a salary increase for the clerk of the district court during 1978 in the line item provision for that position, neither the board of county commissioners nor the administrative judge may implement any salary increase for that position during calendar year 1978. The salary prescribed by line item in that budget is the amount and the only amount authorized by law to be paid for that position during the budget year. The salary payable from state funds effective January 1, 1979, pursuant to 1978 Senate Bill No. 966, is limited to the salary prescribed by line item provision for that position in the original 1978 district court budget.

* * *

Dear Ms. Wentz:

You inquire concerning the application of section 1(a) of 1978 Senate Bill No. 966 to the 1978 salary of yourself and other clerks of district courts in similar circumstances. You advise that in recent years, a number of clerks, including yourself, have received merit raises or salary increases effective July 1 of each year. In the Fifteenth Judicial District, you advise that the proposed raise was not included in the 1978 budget adopted last year. You state that at the time the 1978 court budget was

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presented to the board of county commissioners by the administrative judge, in July, 1977, a suggested amount of a salary increase was approved, but it was not included in the budget itself. Pursuant to this background, the board of county commissioners is proposing to make this increase effective July 1, 1978.

Section 1(a) of 1978 Senate Bill No. 966 provides in pertinent part thus:

"On and after January 1, 1979, the state shall pay the salaries of all nonjudicial personnel of the district courts of this state . . . , and no county may supplement the compensation of district court personnel paid by the state. Except as otherwise provided in this act, from January 1, 1979, to June 30, 1979, inclusive, the state shall pay such personnel monthly compensation in accordance with appropriation acts of the legislature in an amount equal to one month's portion of the annual compensation provided for the person's job position as contained in the 1978 calendar year budget originally approved by the board of county commissioners pursuant to K.S.A. 1977 Supp. 20-349 plus any monthly merit raise originally budgeted for such position for calendar year 1978."

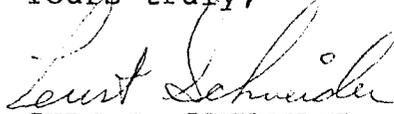
In Opinion No. 78-195, we concluded that the compensation prescribed by the district court budget for the position of clerk of the district court constitutes both a legal prescription of the amount to be paid that officer, and an appropriation of funds for that purpose, and that once the budget was duly adopted, neither the administrative judge nor the board of county commissioners is authorized to alter that compensation.

In accordance with that opinion, I must conclude, first, that if the salary increase which the board of county commissioners proposes to make effective for you as of July 1, 1978, was not incorporated in the 1978 district court budget line item for your position, the board has no authority to implement that increase. Moreover, under section 1(a) as quoted above, the salary payable to you effective January 1, 1979, from state funds is based solely on the compensation prescribed for your position by line item

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in the 1978 district court budget as originally adopted and approved by the board of county commissioners in 1977, and may not be based upon and include any unauthorized increase granted by the board or authorized by the administrative judge which was not included in the original 1978 district court budget.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj