



STATE OF KANSAS

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November 8, 1978

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ATTORNEY GENERAL OPINION NO. 78-359

Mr. John E. Lang
Pottawatomie County Counselor
Pottawatomie County Courthouse
Westmoreland, Kansas 66549

Re: Courts--Personnel--Administration

Synopsis: Effective January 1, 1979, the State of Kansas assumes the payment of salaries of all nonjudicial personnel of the district courts of this state. Such court personnel are not, and have not been since January 1, 1977, county employees, and as a result, a county personnel policy providing for payment for unused sick leave upon termination of employment by the county does not apply to such personnel whose salaries are assumed by the State on January 1, 1979.

* * *

Dear Mr. Lang:

On behalf of Pottawatomie County, you request my opinion concerning the application of a portion of the county personnel policy to the nonjudicial personnel of the Pottawatomie County District Court effective January 1, 1979.

The policy provides in part thus: "An employee shall be paid for any unused sick leave upon termination of his employment with the County." As you point out, effective 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."

Mr. John E. Lang
Page Two
November 8, 1978

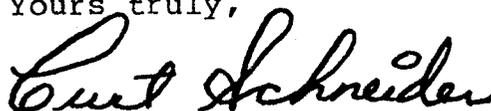
I enclose to you a photocopy of Opinion No. 76-289, in which we stated in pertinent part thus:

"Thus, effective January 10, 1977, all personnel of the Shawnee County District Court are subject to the personnel rules and policies which are prescribed by the Supreme Court and the District Court. The employees described above are thus no longer subject to the personnel regulations of the county, including those prescribing sick leave, annual leave, and like incidents of employment."

In 1976, the Legislature enacted legislation implementing the judicial unification contemplated by Article 3 of the Kansas Constitution, as approved by the voters in 1972. Upon the effective date of the 1976 enactments, court employees ceased to be county employees, and became employees. The counties were required to budget and pay the costs of their salaries; however, the county ceased to be the employer of these personnel, with the authority to hire and fire and prescribe the conditions of employment therefor. The county was required to bear the costs of the salaries and compensation of these personnel not as an employer, but merely as an instrumentality of the state. When the state assumes the payment of these costs effective January 1, 1979, the status of nonjudicial court personnel does not change, for they remain, as they were prior to that date, and at all times subsequent to January 1, 1977, officers and employees of the unified judicial system, and not of the respective counties in which they served. It is for this reason that, in my opinion, the policy quoted above providing for payment "for any unused sick leave upon termination of employment with the county" is inapplicable to the court personnel involved.

It may be that some provision will be made by the state to recognize existing accumulated sick leave, and to permit it to be carried forward January 1, 1979. Whatever provision may be made, however, I cannot but conclude that the county policy does not apply to permit compensation for such leave for the court personnel effective January 1, 1979.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj