



STATE OF KANSAS

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December 12, 1985

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ATTORNEY GENERAL OPINION NO. 85- 173

Zygmunt J. Jarczyk
Assistant County Counselor
Wyandotte County Courthouse
710 North 7th Street
Kansas City, Kansas 66101

Re: State Boards, Commissions and Authorities -- Public
Employees Retirement Systems -- Withdrawal From
Kansas Public Employees Retirement System

Synopsis: An eligible employer may by resolution elect to
affiliate with the Kansas Public Employees
Retirement System (KPERS), with such election
irrevocable once it is made. Cited herein: K.S.A.
1984 Supp. 74-4902(13), as amended by L. 1985, Ch.
254, §7; K.S.A. 1984 Supp. 74-4910; 74-4911;
74-4992.

* * *

Dear Mr. Jarczyk:

As Assistant County Counselor for Wyandotte County, you
request our opinion as to whether Wyandotte County may
withdraw from the Kansas Public Employees Retirement System
(KPERS) and give county employees the option to continue
participation in KPERS or participate in some other plan
adopted by the county.

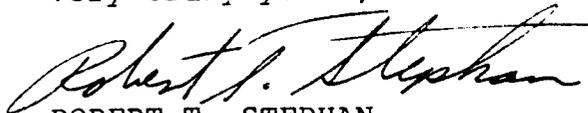
The KPERS act, K.S.A. 74-4901 et seq., provides that an
"eligible employer," as defined by K.S.A. 1984 Supp.
74-4902(13), as amended by L. 1985, Ch. 254, §7, may affiliate
with KPERS by adoption of a resolution by the governing or
legislative body of the eligible employer. The term "eligible

employer" includes the State of Kansas as well as counties, cities and other units of government whose employees are covered by social security. K.S.A. 1984 Supp. 74-4910 further states that "[u]pon the filing of a certified copy of such resolutions with the [KPERS] board an election pursuant to this section shall be irrevocable"

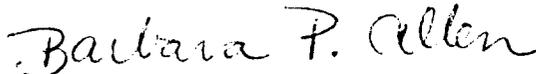
While provisions have been made for some individual members to revoke their election to join (see K.S.A. 1984 Supp. 74-4911; 74-4992), the act makes no provision for revocation by employers. Rather, it is our opinion that the act specifically prohibits withdrawal by an employer which has previously elected to affiliate with KPERS. Thus, while an eligible employer may by resolution elect to affiliate with the Kansas Public Employees Retirement System, such election to do so is irrevocable.

This conclusion is consistent with a prior opinion on this subject issued by Attorney General Frizzell (VI Atty. Gen. Opin. 495), a copy of which is enclosed.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Barbara P. Allen
Assistant Attorney General

RTS:JSS:BPA:crw
Enclosure