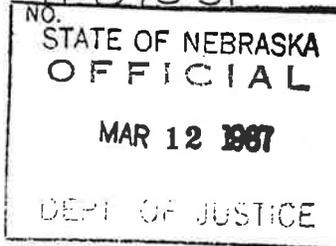


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

#87031



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General

DATE: March 11, 1987

SUBJECT: County Sheriff as "County Health Officer" --
Statutory Authority and Salary

REQUESTED BY: Patrick L. Tripp
Washington County Attorney

WRITTEN BY: Robert M. Spire, Attorney General
Dale A. Comer, Assistant Attorney General

This opinion is in response to your earlier correspondence in which you indicated that the Washington County Sheriff is paid the sum of \$300 per year to act as the "county health officer" as appointed by the Washington County Board of Supervisors. You then requested our opinion as to various matters involving this appointment. Our views are set out below.

You first ask whether the \$300 per year paid to the Washington County Sheriff to act as county health officer is additional compensation in violation of the restriction that forbids additional compensation being paid to elected officials. We assume that the restriction which you reference is Neb.Rev.Stat. §23-1114.08 (Reissue 1983), which provides that, "when the same person occupies more than one office in the same county, he shall receive only one minimum annual salary."

Section 23-1114.08 comes at the end of a series of statutes which establish minimum salaries for elected officials in various classes of counties. For example, Neb.Rev.Stat. §23-1114.02 (Reissue 1983) establishes minimum salaries for the county clerk, treasurer, superintendent, sheriff, attorney and appointive full-time veterans' service officer in Class I counties or counties having a population of less than 3,000 inhabitants. Statutes pertaining to the same subject matter should be construed together as if they were one law and effect given to every provision of those statutes. Wahlers v. Frye, 205 Neb. 399, 288 N.W.2d 29 (1980); State ex rel. Meyer v. Banner County, 196 Neb. 565, 244 N.W.2d 179 (1976). Consequently, §23-1114.08 must be read in conjunction with its preceding statutes and in the context of those statutes. As a result, it is our view that the offices referred to in §23-1114.08 are the elective offices

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generally referenced in the immediately preceding statutes. Those statutes do not discuss a county health officer, and we do not believe that a payment to the county sheriff as county health officer would violate §23-1114.08. This is generally consistent with our opinion set out at Report of the Attorney General, 1977-1978, No. 69 at 102.

We would also note, in passing, that Article III, Section 19 of our state constitution prohibits extra compensation given to any public officer, agent or servant after services have been rendered by those individuals. While this prohibition applies to the state and all political subdivisions thereof, it is our view that it does not prohibit the payment which you have referenced since that payment would not involve extra compensation made after the services have been rendered.

You also ask whether there is statutory authority for a county health officer in a county of 15,000 population when no county health department has been organized pursuant to Neb.Rev.Stat. §71-1627 (Reissue 1986). Neb.Rev.Stat. §§71-1626 et seq. (Reissue 1986) deal generally with the establishment of local health departments. There is no reference to a county health officer in those statutes, and no statutory authority for designation of the county sheriff as a county health officer. However, Neb.Rev.Stat. §71-501 (Reissue 1986) provides, in pertinent part:

The county boards of the several counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious and malignant diseases in their respective counties. To that end a board of health shall be created, consisting of three members: The sheriff, who shall be chairman and quarantine officer; a physician who resides permanently in the county, . . . who shall be medical advisor, . . . and the county clerk or superintendent, to be appointed by the county board of commissioners or supervisors who shall be secretary. The county board may pay the chairman of the board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. (Emphasis added).

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While this particular statute does not specifically reference a county health officer, it does provide that the county sheriff shall act as chairman of the county board of health and as quarantine officer, and it does provide for a payment to the county sheriff similar to that which you have described. Therefore, we believe that §71-501 authorizes the county sheriff to act as "county health officer" with the duties described in that statute and succeeding statutes even though no county health department has been organized pursuant to §71-1627.

Sincerely,

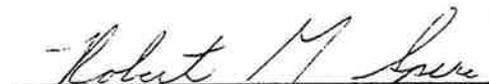
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APPROVED:


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