

VOLUME NO. 36**Opinion No. 4**

CITIES AND TOWNS — City-County Board of Health — Status of Employees; COUNTIES — City-County Board of Health — Status of Employees — Sections 16-4904, 69-4506, and 69-4508, Revised Codes of Montana, 1947.

HELD: When city employees are transferred to a city-county health department, they retain their status as city employees for the purposes of personal benefits such as vacation leave, sick leave, and retirement.

March 27, 1975

Mr. Harold F. Hanser, County Attorney
Yellowstone County Courthouse
Billings, Montana 59101

Dear Mr. Hanser:

You have requested my opinion on the following question:

Does the transfer of city employees to the city-county health department, as provided by (a) Title 69, chapter 45, R.C.M. 1947 and (b) the agreement entered into by the city and the county covering personal benefits such as annual leave, sick leave, and retirement, have any effect on their status as city employees?

Of utmost importance is the interlocal agreement entered into on June 10, 1974, by the City of Billings, the City of Laurel, and Yellowstone County for the establishment of a city-county board of health as authorized in section 69-4506, R.C.M. 1947. You have indicated that the essential features of this agreement are: (1) all employees transferred to the city-county health department from existing health-related programs shall be guaranteed protection of their personal benefits including annual leave, sick leave, and retirement; (2) all expenditures, including salaries, are to be paid through the county treasurer; (3) each party to the agreement shall budget and transfer funds to the county treasurer's account; and (4) city employees shall remain headquartered in city offices even though they are supervised by the county health officer and paid by the county treasurer. Clearly, this agreement contemplates no change in the status of city employees who become affiliated with the city-county health department insofar as their personal benefits are concerned.

Such an objective is buttressed by the Interlocal Co-operation Act, sections 16-4901, et seq., R.C.M. 1947. This act permits local governmental units to combine their resources in order to maximize service and efficiency. To that end, section 16-4904, R.C.M. 1947 provides:

(11) Any public agency entering into an interlocal contract pursuant to this act may appropriate funds for and may sell, lease, or otherwise give or supply to the administrative board created for the purpose of performance of said contract and may provide such personnel or services therefor as may be within its legal power to furnish.

Obviously, the legislature did not intend to change the status of the employees of such governmental agencies.

Title 69, chapter 45, R.C.M. 1947, relates to local boards of health. Section 69-4508, R.C.M. 1947 provides the method of financing these boards:

(2) Appropriations are made as follows:

(c) If a city-county board is created:

(i) The county commissioners and governing body of the city, or cities, may mutually agree upon the division of expenses. The county part of the total expenses is financed by an appropriation from the general fund of the county after approval of a budget in the way provided for other county offices and departments... . The city, or cities, part of total costs is financed by an appropriation from the general fund of the city, or cities, participating in the city-county board after approval of a budget in the way provided for other city offices and departments. ...

All moneys shall be deposited with the county treasurer who shall disburse them as county funds; ...

It is readily apparent from section 69-4508 that the only purpose served by channeling funds through the county treasurer is administrative convenience. The fact that city employees receive their salaries from the county treasurer does not transform them into county employees. In substance, these employees are still paid by the city because the city supplies necessary funds to the county treasurer.

Even if these employees were no longer considered city employees, their accrued vacation and sick leave would be protected by the transfer provisions of sections 59-1003 and 59-1008, R.C.M. 1947, retirement benefits, of course, would remain in the Public Employees' Retirement System.

THEREFORE, IT IS MY OPINION:

City employees who are transferred to a city-county health department retain their status as city employees for the purpose of personal benefits such as vacation leave, sick leave, and retirement.

Very truly yours,
ROBERT L. WOODAHL
Attorney General