

STATE MERIT SYSTEM LAW:  
SECRETARY BOARD OF PROBATION  
AND PAROLE:

That the provisions of the State  
Merit System Law do not apply to  
the Secretary of the Board of  
Probation and Parole.



October 9, 1953

Honorable Donald W. Bunker  
Executive Secretary  
Board of Probation and Parole  
Jefferson City, Missouri

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"May I please have your opinion on the following question: Do the provisions of The State Merit System Law, Chapter 36, R. S. Mo. 1949 apply to the position of the 'secretary, who shall be the chief administrative and executive officer of the board' of probation and parole as described in Section 549.220 R. S. Mo. 1949?"

Section 549.200, RSMo 1949, paragraphs 1 and 4, states:

"1. There is hereby created and established a 'Board of Probation and Parole,' which shall consist of three members appointed by the governor, by and with the advice and consent of the senate, no more than two of whom shall be of the same political party. Only persons of recognized integrity and honor, known to possess ability, experience and other qualifications, fitting them for the successful performance of their official duties, shall be eligible for appointment to this board.

"4. Members of this board shall reside in Jefferson City during their terms of office and shall devote their full time to the duties of their office."

Section 549.220, RSMo 1949, states in part:

"The board of probation and parole shall appoint a secretary who shall be the chief administrative and executive officer of the board."

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From the above we see that the secretary of the board of probation and parole is the secretary of a board, the members of which are required to be appointed by the governor.

Section 36.030, RSMo 1949, states in part:

"1. There is hereby established for certain employees of the state, a system of personnel administration based on merit principles and designed to secure efficient administration. This system shall govern the appointments, promotions, transfers, lay-offs, removal, and discipline of certain employees, and other incidents of state employment. Except as herein specified, all appointments and promotions to positions covered by this chapter shall be made on the basis of merit and fitness, to be ascertained by competitive examinations. The personnel division created under this law shall be responsible for administering the provisions of this chapter, and it shall also render such services to the departments and divisions covered hereunder as may be necessary and desirable to assist the officials thereof in discharging their responsibility for maintaining and increasing the effectiveness of personnel administration.

"2. The provisions of this chapter shall apply to all offices, positions and employees of the state department of public health and welfare, the state department of corrections, and the division of employment security of the department of labor and industrial relations, except such offices, positions and employees within the above named agencies as are herein specifically exempted.

"3. The following offices, positions and appointments in the agencies covered by this chapter are hereby exempted from the operation of this law and may be filled without regard to those provisions hereof which relate to the selection, appointment, pay, tenure and removal of persons employed in such agencies:

"(1) Members of boards and commissions and heads of departments required by law to be appointed by the governor, except the personnel director;

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"(2) One secretary for each board or commission the members of which are appointed by the governor, except the personnel advisory board;

"(3) One secretary for each director, division head and each member of boards and commissions the members of which devote their full time to the business of the board or commission the members of which are appointed by the governor, except the personnel director;\* \* \*."

From the above we see that the secretary of the board of probation and parole is exempt from the application of the state merit system law.

CONCLUSION

It is the opinion of this department that the provisions of the state merit system law do not apply to the secretary of the board of probation and parole.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON  
Attorney General

HPW/ld