



STATE OF KANSAS

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March 3, 1975

Opinion No. 75- 93

The Honorable Jim Parrish
State Senator
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Dear Senator Parrish:

You inquire concerning 1975 Senate Bill No. 216, which proposes to amend K.S.A. 72-8118a. That section presently commences thus:

"The board of education of any school district in which there is located more than one-half (1/2) of the territory of a city having a population of more than one hundred twenty thousand (120,000) and less than one hundred sixty thousand (160,000) shall be composed of seven (7) members."

It goes on to set forth a method of election for such members. Senate Bill 216 proposes to amend this section, to provide a different method of election and voting plan. The first paragraph of the new bill, however, set out as subsection (a) of K.S.A. 72-8118a, is stated to have precisely the same scope of application as the provision sought to be amended. The bill commences thus:

"(a) Any school district in which there is located more than one-half (1/2) of the territory of a city having a population of more than one hundred twenty thousand (120,000) and less than one hundred sixty thousand (160,000) shall, in the manner provided for by this act, be divided into three (3) designated geographical subdistricts to be known as member districts."

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New section 2 of the bill provides a method of election and voting plan applicable to the members provided for by section 1. Section 3 provides that at any time after the school elections in 1981, the method of election or voting plan or both of any school district to which the act applies may be made in the manner provided by the 1968 school election act, as set forth in art. 80, ch. 72, K.S.A.

You state that the legality of this bill has been questioned on the ground that it may constitute special legislation in violation of the state and federal constitutions. The objection is wholly groundless, in our view.

There is no prohibition contained in the United States Constitution against so-called "special legislation." Article 2, § 17 of the Kansas Constitution requires that "[a]ll laws of a general nature shall have a uniform operation throughout the state. Prior approval by the voters on November 5, 1974, of an amendment to revise article 2, this section provided in pertinent part thus:

"All laws of a general nature shall have a uniform operation throughout the state; and in all cases where a general law can be made applicable, no special law shall be enacted"

There is no longer a prohibition against the enactment of a special law where a general law may be made applicable. There remains, however, the requirement that all laws of a general nature have a uniform operation throughout the state. In State ex rel. Griffith v. Russell, 119 Kan. 266 (1925), there was questioned a statutory proviso applicable only "to any county having a population of not less than three thousand nor more than thirty-four hundred and fifty people" The court held to its past precedent, upholding similar provisions, including State v. Downs, 60 Kan. 788 (1899), from which it quoted as follows:

"An act general in its provisions, but which can presently apply to only one city on account of there being but one of requisite population or other qualification, but which was designed to, and can in all substantial

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particulars apply to other cities as they become possessed of the requisite population or other qualification, cannot be regarded as a special act.'"

In State ex rel. Griffith, supra, the court continued thus:

"The classification of the statute under consideration is based on population. The statute may now apply to only one county; next year it may apply to two; in the future it will apply to any county which comes within its provisions. For that reason the statute is general and operates uniformly in all counties to which it applies. It does not violate section 17 of article 2 of the constitution of this state." 119 Kan. at 268.

Senate Bill No. 216 applies, as does the section which it proposes to amend, K.S.A. 72-8118a, to "[a]ny school district in which there is located more than one-half (1/2) of the territory of a city having a population of more than one hundred twenty thousand (120,000) and less than one hundred sixty thousand (160,000)" If enacted, the bill may apply now only to one school district; next year, it may apply to two; in the future, it will apply to any school district which comes within its provisions.

It constitutes, thus, a law of a general nature which has a uniform operation to all school districts to which it applies, and complies with Art. 2, § 17, of the Kansas Constitution. Under section 3 of the bill, which again applies to any school district to which the bill applies, a change of method of election or voting plan or both in any school district to which the act applies may be made in the manner provided by art. 80, ch. 72, K.S.A. at any time after the school elections in 1981. The fact that the applicability of certain other state laws to districts to which the bill applies may be delayed until a fixed date, does not alter the fact, and necessary conclusion, that the act is itself a general law applying uniformly to all districts coming within its terms.

Yours very truly,


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Attorney General