



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

July 14, 1975

ATTORNEY GENERAL OPINION NO. 75- 286

Mr. Norman D. Wilks, President
USD 103, Cheyenne County, Kansas
101 West Washington
St. Francis, Kansas 67756

Re: Recreation--Establishment of Program Under K.S.A.
12-1901 et seq.--Elections

Synopsis: K.S.A. 12-1904 does not authorize the calling of a special election on the question of establishing a supervised recreation system thereunder, and such question may be submitted only at the next regular or special city or school election which is held more than 30 days after the filing of a petition for establishment of a recreation program thereunder.

Dear Mr. Wilks:

As president of Unified School District No. 103, Cheyenne County, Kansas, you inquire concerning K.S.A. 12-1904. U.S.D. 103 is the result of consolidation of former districts 319 and 296, each of which conducted a recreation program. Petitions are now being circulated to request the establishment of a supervised recreation program by the new district.

K.S.A. 12-1904 provides thus:

"Except as otherwise provided in subsection (b) of section 12-1908 of the General Statutes of 1949, as amended, whenever a petition signed by at least five percent (5%) of the qualified and registered voters of the city or school district shall be filed

with the clerk thereof, requesting the governing body of the city or school district to provide, establish, maintain and conduct a supervised recreation system and to levy an annual tax therefor not to exceed one (1) mill, it shall be the duty of the governing body of the city or school district to cause such question to be submitted to the qualified voters thereof to be voted upon at the next regular or special election of the city or school district to be held more than thirty (30) days after the filing of such petition."

[Emphasis supplied.]

You inquire, specifically, whether the school board is authorized to call a special election to submit the question of establishing a supervised recreation system under the act, or whether the question must await submission to the voters at the next regular or other specially called election in the school district.

The statute does not in and of itself appear to authorize the calling of an election. Rather, it prescribes the elections at which the question may be submitted, i.e., "the next regular or special election of the city or school district to be held more than thirty (30) days after the filing of such petition." K.S.A. 12-1908(b), by way of contract, provides that when an additional levy of one mill is deemed necessary, a resolution authorizing same shall be published, and a petition in opposition thereto may be filed. If a sufficient and valid petition is filed, the question of levying the additional tax shall be submitted at "the next regular city election or at a special election called for the purpose." Thus, K.S.A. 12-1908 authorizes the calling of an election on the question of the levy, whereas K.S.A. 12-1904 only prescribes the elections at which the question of establishment of a recreation system may be submitted, and does not, in and of itself, authorize the calling of a special election on the question.

Accordingly, we cannot but conclude that K.S.A. 12-1904 constitutes no authority for the calling of a special election for the purpose of submitting the question whether a supervised recreation system shall be established under K.S.A. 12-1901 et seq., and that the question may be submitted only at the next regular election of the city or school district or at the next special election of the city or school district which is lawfully called under separate authority therefor.

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Certainly, this lack of authority may result in undue delays in the establishment of a system, even after petitions requesting it have been filed. Unfortunately, however, the language of the statute does not permit a broader construction.

Yours very truly,

A handwritten signature in cursive script that reads "Curt Schneider". The signature is written in dark ink and is positioned above the typed name.

CURT T. SCHNEIDER
Attorney General

CTS/JRM/ksn