



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 19, 1976

ATTORNEY GENERAL OPINION NO. 76- 19

Gary L. Nafziger
Jefferson County Attorney
Jefferson County Courthouse
Oskaloosa, Kansas 66066

RE: Counties -- Charter Resolution Petitions

SYNOPSIS: A petition filed pursuant to K.S.A. 19-101b(c) to require an election on a proposed county charter resolution must be signed by a number of electors of the county equal to not less than two percent of the number of electors who voted at the last preceding November general election or one hundred, whichever is greater. The sufficiency of any such petition shall by law be determined by the county election officer.

* * *

Dear Mr. Nafziger:

You inquire as to the requirements both as to substance and form regarding the petition of registered voters of Jefferson County petitioning for a vote on a charter resolution pursuant to K.S.A. 19-101a et seq. As you are aware, 19-101b(c) requires that the petitions contain signatures of a number of electors equal to not less than 2% of the number of electors who voted in the last preceding general election or 100 electors, whichever is the greater, and it also requires that the petitions be filed within the office of the county election officer demanding that such resolution be submitted to a vote of the electors. K.S.A. 25-3602 requires in part:

"Each petition shall consist of one or more documents pertaining to a single issue or

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proposition under one distinct title, and such document shall be filed with the county election officer or other official, such filing to be made at one time all in one group."

K.S.A. 25-3604 requires:

"In counties, cities, school districts and other municipalities, or part thereof, where registration of voters is required in the entire territory thereof, the signatures to petitions which assert that the petitioners are "legally qualified electors" or words of like effect in conformity with the applicable statute shall be accepted, by the officer determining the sufficiency of petition signatures, as proper signatures, so long as persons of the same names or ones of such similarity as to reasonably appear to be the same persons are contained in the registration books, and so long as the address of the petitioner is furnished, unless such official has reasonable evidence that the asserted signature of the person it purports to be, or that the signature though genuine is not the signature of a duly qualified elector. The secretary of state shall adopt rules and regulations for the guidance of county election officers and other officers as specified by law in making determination under this section of sufficient similarity of names on petitions and names in registration books."

Signatures on the petition shall be checked against signatures appearing in the registration books at the time of filing the petition. I am enclosing a copy of Article 28 of regulations adopted by the Secretary of State, effective January 1, 1972, regarding sufficiency of petitions.

You also inquire what governmental body, public official, or judicial authority is vested with the duty, authority and obligation to determine the sufficiency of any petition so submitted. K.S.A. 25-3601 provides that the "sufficiency of each signature and the number thereof on any such petition" shall be determined by the county election officer.

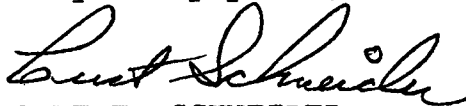
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K.S.A. 25-2303, designation of county election officer and deputies definition adopted by reference. K.S.A. 25-2303 states in part:

"The officer responsible for administering the provisions of this act shall be the county election officer. "County election officer" means the election commissioner in counties having an election commissioner, and the county clerk in counties which do not have an election commissioner."

The answer to your question, then, is that the county clerk in Jefferson County would be the county election officer as provided for in K.S.A. 25-2303.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

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Enclosure

(e) The party affiliation list shall be maintained in one of the following methods:

- (1) Typed, mechanically prepared, or handwritten list, or
- (2) computer or data processing print-out. (Authorized by K. S. A. 25-3302; effective Jan. 1, 1972; amended Jan. 1, 1974.)

Article 28.—SUFFICIENCY OF PETITIONS

7-28-1. Determination. In determining the sufficiency of signatures or names on a petition, when such signatures or names are not identical to those in the registration books, the following rules shall apply:

(1) If the last name in the signature on the petition is not spelled identically to the last name in the registration books, the signature is improper and insufficient.

(2) If a signature contains initials which are consistent with the names or initials as they appear in the registration books, and if the last name in the signature on the petition is identical to the last name in the registration books and the address is identical or in the same precinct, the signature is proper and sufficient.

(3) If a signature contains a nickname or abbreviation which is commonly accepted for a given name as it appears in the registration books (such as "Wm." or "Bill" for William), and the last name is identical and the address is identical or in the same precinct as that appearing in the registration books, the signature is proper and sufficient.

(4) Prefixes to names, such as Mr., Mrs., Miss, Dr., shall be disregarded.

(5) Notwithstanding any of the foregoing rules, if there is evidence leading the election officer to believe any signature is not genuine, such signature shall be considered improper and insufficient.

(6) In all cases not provided for by these rules, the signature is proper and sufficient if it bears such similarity as to reasonably appear to be the same as that contained in the registration books. (Authorized by K. S. A. 1971 Supp. 25-3604; effective Jan. 1, 1972.)