



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

December 15, 1976

ATTORNEY GENERAL OPINION NO. 76-366

Mr. Robert E. Laubengayer
Ellsworth County Attorney
Post Office Box 83
Ellsworth, Kansas 67439

Re: Elections--Recall--Irrigation Districts

Synopsis: Members of the board of directors of an irrigation district who are elected as provided by K.S.A. 42-702 are not elected at an election which is conducted by a county election officer. The recall provisions of sections 18 through 31 of ch. 178, L. 1976, apply only to elected public officials who are provided by law to be elected at an election conducted by one or more county election officers. Thus, members of the board of directors of an irrigation district elected as provided in K.S.A. 42-702 are not subject to recall pursuant to §§ 18-31, ch. 178, L. 1976.

* * *

Dear Mr. Laubengayer:

You inquire concerning the sufficiency of a recall petition respecting officers of an irrigation district. That statute provides alternative procedures for electing officers of the district. Subsection (d) provides for election of members of the board of directors at an election conducted by an election board designated by the board of directors of the irrigation district. The list of qualified electors who are eligible to vote in that election shall be prepared by the county clerk of any county in which a portion of the district is located, including therein all persons who are holders of title for residents of the state and

Mr. Robert E. Laubengayer
Page Two
December 15, 1976

and are otherwise qualified electors. The county election officer has no other official responsibility in connection with such elections.

Alternatively and in lieu of this procedure, the board of directors of any irrigation district of less than 30,000 acres in size may call an annual meeting of all qualified owners of irrigable land in the district for the purpose of electing directors. The election board which conducts the election is appointed by the board of directors of the district. That election board canvasses the results of the election and certifies them to the Secretary of State and the Chief Engineer.

You inquire how the number of electors sufficient for a recall petition may be determined. Section 25 of ch. 178, L. 1976, as amended by section 5, L. 1977 specifies thus:

"The recall committee may file the petition only if signed by registered electors in the election district of the local officer sought to be recalled equal in number to not less than forty percent (40%) of the votes cast for the office of the local officer sought to be recalled in the last general election "

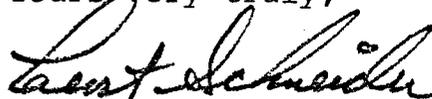
No votes, of course, were cast for any officer of the irrigation district at any general election, for the members of its board of directors are not elected at a general election.

Section 2(c) specifies the officers to whom the act applies insofar as pertinent here:

"Sections 18 to 31, inclusive, apply only to recall of all elected public officials who are provided by law to be elected at an election conducted by one or more county election officers. . . ."

Members of the board of directors of an irrigation district who are elected as provided by K.S.A. 42-706 are not elected at an election which is conducted by any county election officer, and thus are not subject to a recall petition filed under sections 18 to 31 of ch. 178, L. 1976.

Yours very truly,



CURT T. SCHNEIDER
Attorney General