



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 31, 1977

ATTORNEY GENERAL OPINION NO. 77- 108

The Honorable Fred A. Kerr
State Senator
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Cities--Abandonment of City Manager Plan--Effective Date

Synopsis: If the city manager plan authorized by K.S.A. 12-1001 through -1020 is abandoned, such abandonment is effective upon the date of approval thereof by the voters, pursuant to K.S.A. 1976 Supp. 12-1019. Abandonment of the city manager form of government by a city operating under a council form of government is effective sixty days after approval thereof by the voters.

* * *

Dear Senator Kerr:

I have your letter of March 24, 1977, enclosing a letter from a citizen of the City of Pratt, concerning the procedure for abandonment of the city manager form of government. In particular, there appears to be concern that a conflict exists between K.S.A. 1976 Supp. 12-1019 and -184 as to the time when the change shall take effect, if it is approved by the voters.

K.S.A. 12-1001 through -1020 is an act which was first adopted in 1917, providing for adoption of the commission-manager form of government. K.S.A. 1976 Supp. 12-184 was adopted as section 1 of ch. 76, L. 1976. That section addressed the calling and conduct of elections "[w]henver any law of this state provides for an election on the question of the adoption or abandonment

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of any form of city government." It is silent as to when the change shall take effect, if approved by the voters. It is thus necessary to look to other provisions. The correspondence enclosed with your letter indicates that the city attorney believes that K.S.A. 12-1019 is applicable, which commences thus:

"Any city of the state of Kansas that shall have operated for four (4) years or more under the provisions of this act, may abandon such form of organization as is herein provided for and accept either the provisions of the commission form of government law or the mayor and council form of government law, then applicable to cities of its population"

This section refers, presumably, to cities operating for four or more years under the city manager plan provided for under the 1917 act as amended. I would point out that in 1935, an additional act was adopted, section 1 of which as amended is now found at K.S.A. 12-1021, and which states thus:

"Any city of the first, second or third class which is now or hereafter operating under the council form of government, may vote upon the question of adopting a city manager plan of government as in this act provided."

If the city adopted its city manager form of government under this 1935 act, the effective date of any abandonment once approved by the voters would be that prescribed by K.S.A. 12-1028:

"If a majority of all the votes cast at such election shall be in favor of the abandonment of the city-manager plan, then the governing body of such city shall within sixty days after such election discharge the city manager, and shall then assume the powers and duties delegated to such governing body under the laws of the state of Kansas"

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If, however, abandonment is approved under K.S.A. 12-1019, the abandonment is effective immediately upon approval by the voters:

"If a majority of the votes cast upon said proposition, at such election, shall be in favor of abandoning the city-manager plan of government, the said city shall become a city under the general law governing cities of like population and according to the form designated in the proposition submitted to the voters at said election. The officers constituting the governing board of such city, at such time, shall continue to hold their offices, and said city shall continue to be governed by them as mayor and commissioners until the next general city election. . . ."

I hope this information will be helpful to you.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: Mr. H. B. Blachly
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