



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 26, 1977

ATTORNEY GENERAL OPINION NO. 77- 310

The Honorable Billy Q. McCray
State Senator
1532 North Ash
Wichita, Kansas 67214

Re: Cities--Home Rule--Applicability

Synopsis: If an amendment to the Kansas constitution is approved by all voters casting votes thereon, it is applicable throughout the state, and not merely in those counties or cities wherein a majority of the electors approved the amendment. No city may elect to exempt itself from Article 12, § 5 of the Kansas Constitution.

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Dear Senator McCray:

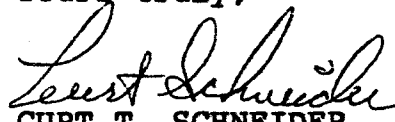
At the general election of November 8, 1960, the people of Kansas approved an amendment to the Kansas Constitution providing home rule for municipalities. You advise that the amendment was not approved by a majority of the electors of either Sedgwick County or the City of Wichita, and you inquire whether that amendment, now Article 12, § 5, is "legal or constitutional in those counties or cities which voted it down."

Article 14 of the Kansas Constitution provides for the adoption of amendments thereto. In 1961, it provided in pertinent part that "if a majority of the electors voting on said amendment . . . shall adopt the amendments, the same shall become part of the constitution." There is no provision for "local option" constitutional amendments. The proposed amendment was approved by a majority of the electors of the entire state, and it is now part of the constitution of the entire state.

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Secondly, you ask whether a city "by charter ordinance [may] exempt itself from the home rule provision." No city may exempt itself from Article 12, § 5, by charter ordinance or otherwise.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj