



STATE OF KANSAS

Office of the Attorney General

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

Curt T. Schneider
Attorney General

March 10, 1978

ATTORNEY GENERAL OPINION NO. 78- 113

The Honorable Clarence C. Love
State Representative
3rd Floor - State Capitol
Topeka, Kansas 66612

Re: Offices--County Treasurers--Term

Synopsis: The legislature may extend the terms of office of county treasurers elected at the general election in 1976 until the second Tuesday of October of 1981.

* * *

Dear Representative Love:

You request my opinion concerning 1978 Senate Bill 620. Under the existing K.S.A. 1977 Supp. 19-501, county treasurers were elected at the general election in 1976 in each county to a term of office commencing the second Tuesday of October, 1977, and extending until the second Monday in January, 1981, and until a successor is elected and qualified. Under this bill, the term would be extended until the second Tuesday in October of 1981.

The question is raised whether there is any constitutional or other legal obstacle to lengthening the term of office of county treasurers already elected. The office of county treasurer is a statutory office, created by the legislature, which is free to abolish that office or alter it in any manner except when and as expressly or by necessary implication prohibited by the state or federal constitution. There is no federal constitutional inhibition against extending the term of the office or of incumbents thereof. Extension of the term does not violate the equal protection or due process clauses of the Fourteenth Amendment, nor does it violate any other federal constitutional guarantee.

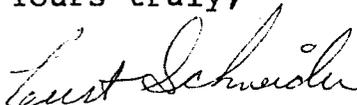
The Honorable Clarence C. Love
Page Two
March 10, 1978

Article 15, § 2 of the Kansas Constitution provides in pertinent part thus:

"The tenure of any office not herein provided for may be declared by law; when not so declared, such office shall be held during the pleasure of the authority making appointment, but the legislature shall not create any office the tenure of which shall be longer than four years." [Emphasis supplied.]

Thus, the legislature is free to extend the term of any office which it has created, and thereby the term of the incumbent officeholder, so long as the term of the office thus extended does not exceed four years. Under Senate Bill No. 620, as amended by Senate Committee, a county treasurer who was elected at the 1976 general election and who took office on the second Tuesday of October, 1977, would serve until the second Tuesday of October, 1981, a term of four years. Thus, the term of office so extended would not exceed four years, the maximum term of the office which the legislature may provide. I find no legal objection to this bill whatever.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

cc: The Honorable Elwaine F. Pomeroy
State Senator

Mr. Alan Alderson
Office of the Revisor of Statutes

Mr. Mike Heim
Legislative Research Department