

See AGO 78-344

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

October 2, 1978

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ATTORNEY GENERAL OPINION NO. 78- 312

The Honorable Jack H. Brier
Secretary of State
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: Elections--County Boards of Canvassers--Dates

Synopsis: K.S.A. 1977 Supp. 25-3104 requires that the county board of canvassers meet on Friday, November 10, 1978, to canvass the general election held on Tuesday, November 7, 1978. Even though various county courthouses may be closed on Friday, November 10, 1978, in observance of Veterans' Day which falls on the following Saturday, November 11, 1978, the county board of canvassers itself must convene on Friday, November 10, for the conduct of the intermediate and final canvasses of elections held on Tuesday, November 7, 1978.

* * *

Dear Mr. Brier:

K.S.A. 1977 Supp. 25-3101 provides that the board of county commissioners of each county shall be the board of canvassers for elections occurring within the county. K.S.A. 1977 Supp. 25-3104 prescribes the date for the canvass:

"The county election officer shall present the original returns, together with the ballots, books and any other records of the election, for the purposes of canvass, to the county

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board of canvassers at any time between 8:00 o'clock a.m. and 10:00 o'clock a.m. on the Friday next following any election held on a Tuesday."

Under K.S.A. 1977 Supp. 35-107, Veterans' Day, the eleventh day of November, is declared to be a legal public holiday.

As a result, you understand that several county courthouses will be closed on Friday, November 10, 1978, in observance of Veterans' Day which falls on the following day. Accordingly, you request my opinion whether the county board of canvassers are required to conduct the canvass of the general election on November 10, 1977, or whether the canvass may be held on the following Monday or some subsequent day.

The county board of canvassers makes the final canvass of all county, township, city and school elections, and of all question submitted elections. It makes the intermediate canvass of all elections of national and state officers. The intermediate and final canvasses are important steps in the election process, and the legislature has directed that such canvasses shall be held promptly, on the Friday following any election held on a Tuesday, and not later than the fifth day after any election held on any day other than a Tuesday. County boards of canvassers have no statutory authority to delay or postpone the canvass to any other date than that specifically provided by statute. Notwithstanding that boards of county commissioners may authorize the closing of county offices for the transaction of county business on Friday, November 10, they are required themselves, nonetheless, to conduct the canvass of elections on that day. The clear legislative policy that canvasses be held promptly and the obvious importance that election results be known and declared promptly compels the conclusion that each board of canvassers has a mandatory duty to conduct the canvass, either intermediate or final, on the day specified by statute. In my opinion, the county boards of canvassers must convene on Friday, November 10, 1978, to conduct the canvasses required by article 21, ch. 25, K.S.A.

Yours truly,



CURT T. SCHNEIDER
Attorney General

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