



STATE OF KANSAS

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January 16, 1981

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ATTORNEY GENERAL OPINION NO. 81- 10

The Honorable Belva Ott  
State Representative--Ninety-Second District  
State Capitol Bldg., Rm. 431-N  
Topeka, Kansas 66612

Re: Counties and County Officers--County Commissioners--  
Change in Number of Districts

Synopsis: The election to determine whether the number of county commissioner districts will be changed is a general election held on the Tuesday succeeding the first Monday in November on even-numbered years. Cited herein: K.S.A. 1980 Supp. 19-204, 25-101, K.S.A. 25-2501, 25-2502, 25-2507, K.S.A. 1980 Supp. 25-3901, K.S.A. 77-201, Twenty-Sixth, Kan. Const., Art. 4, Sec. 2. (Affirming Attorney General Opinion No. 80-181.)

\* \* \*

Dear Representative Ott:

You have requested our opinion whether the Board of County Commissioners of Sedgwick County may submit the question of changing the number of county commissioners from three to five members at the upcoming school district and city elections in April, 1981. You advise that the Sedgwick County Commissioners wish to adopt a resolution authorizing the election, and that they feel that they have statutory authority to submit the question for a vote during the April election. But, you further advise that the question has been raised whether the election

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in April is a "general election" within the meaning of K.S.A. 1980 Supp. 19-204(b).

The board of county commissioners is authorized by statute, K.S.A. 1980 Supp. 19-204(b), to adopt a resolution dividing the county into three, five or seven commissioner districts, "as compact and equal in population as possible." The statute further provides that

"no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election, following not less than 60 days the adoption of such resolution, in which all of the qualified electors of the county are entitled to vote." (Emphasis added.)

Your inquiry requires an interpretation of the above-emphasized language of the statute in question.

In Attorney General Opinion No. 80-181, we addressed the question you have raised in response to a request from the Shawnee County Election Commissioner, Mary F. Hope. The following excerpt from that opinion is pertinent to your request:

"Your second question concerns the meaning of the words 'general election' in K.S.A. 1979 Supp. 19-204. Specifically, you inquire whether the election to determine if the number of commissioner districts is to be changed must be a general election rather than a primary or presidential preference election. K.S.A. 1979 Supp. 19-204 specifically requires this election to be 'at the next general election.' The term general election is a technical term which is defined several times in Chapter 25 of the Kansas Statutes Annotated; see, e.g., K.S.A. 1979 Supp. 25-101 and 25-3901; see also, K.S.A. 77-201, Twenty-Sixth and Kan. Const., Art. 4, Sec. 2 and Hamilton v. Raub, 131 Kan. 392 (1930); State ex rel. v. Mechem, 31 Kan. 435 (1884). The general election is the election which occurs on the Tuesday succeeding the first Monday in November on even-numbered years. It is clear that the legislature was referring to the November general election, and not to any other general election, since the statute refers to the election 'in which all of the qualified electors

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of the county are entitled to vote,' during which election county offices are filled. Thus, the election to determine whether the number of commissioner districts shall be changed may not be a special, primary or presidential preference primary election." Attorney General Opinion No. 80-181, p.3.

We affirm that opinion, and we submit that it resolves the issue you have presented. You refer us to Attorney General Opinion 80-34, upon which opinion the Sedgwick County Commissioners apparently rely. In that opinion, we noted that the term "general election" is also defined in K.S.A. 25-2502 so as to include "the elections held for officers on the first Tuesday in April." K.S.A. 25-2501 states that, unless the context of a statute requires a different meaning, the election definitions of general application set forth in K.S.A. 25-2502 to 25-2507 shall apply to all provisions of the Elections Act.

We respectfully submit that the commissioners' reliance on Attorney General Opinion No. 80-34, in support of their conclusion that the election in question may be conducted in conjunction with the April city and school district elections, is misplaced. The definition of "general election" in K.S.A. 25-2502, which includes the April elections, is only applicable "unless the context [of a statute] requires a different meaning," as we noted above. K.S.A. 25-2501. The election referred to in K.S.A. 1980 Supp. 19-204(b) must necessarily be a November general election, since the April city and school district elections are not general elections "in which all the qualified electors of the county are entitled to vote." The context of the statute in question clearly requires a different and narrower definition of the term "general election" than that ascribed to it under K.S.A. 25-2502.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Steven Carr  
Assistant Attorney General

RTS:BJS:SC:pf

Enclosures: Attorney General Opinion No. 80-181  
Attorney General Opinion No. 80-34