



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

July 7, 1980

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ATTORNEY GENERAL OPINION NO. 80-143

Thomas L. Wilson  
Woodson County Attorney  
P.O. Box 181  
Yates Center, Kansas 66783

Re: Cities and Municipalities--Public Recreation and  
Playgrounds--Election to Establish a Supervised  
Recreation System

Synopsis: Under the provisions of K.S.A. 12-1904, more than one election may be held during a calendar year to determine whether a supervised recreation system should be established, provided, that a petition calling for such to be established and containing the names of a sufficient number of qualified and registered voters is filed in accordance with the provisions of the statute. Cited herein: K.S.A. 12-1901, 12-1904, K.S.A. 1979 Supp. 12-3013, 25-2503, K.S.A. 72-7302.

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Dear Mr. Wilson:

You request an opinion from this office as to whether more than one election can be held during any one calendar year on the question of establishing a supervised recreation system pursuant to K.S.A. 12-1904..

You explain that on April 1, 1980, an election was held in Woodson County Unified School District No. 366 to determine whether a supervised recreation system should be established.

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The election resulted in a tie vote, and thus the proposal was defeated. Due to the continued interest in establishing such a recreation system, you have been asked if the question can be submitted again during calendar year 1980.

K.S.A. 12-1901 provides:

"Any city or school district may operate a system of public recreation and playgrounds, acquire equipment and maintain land, buildings or other recreational facilities, employ a superintendent of recreation and assistants, vote and expend funds for the operation of such a system."

K.S.A. 12-1904, in relevant part, provides:

"[W]henver a petition signed by at least five percent (5%) of the qualified and registered voters of the city or school district shall be filed with the clerk thereof, requesting the governing body of the city or school district to provide, establish, maintain and conduct a supervised recreation system . . . it shall be the duty of the governing body of the city or school district to cause such question to be submitted to the qualified voters thereof to be voted upon at the next regular or special election of the city or school district to be held more than thirty (30) days after the filing of such petition."  
(Emphasis added.)

It is apparent that the provisions of K.S.A. 12-1904 provide for a "question submitted election," within the definition of that term in K.S.A. 1979 Supp. 25-2503. It is also apparent, however, that the provisions of this statute do not establish a limitation on the frequency of conducting elections pursuant thereto. In addition, a review of the remaining provisions of K.S.A. 12-1901 et seq. discloses no such limitation elsewhere in this act. Also, we find no statute in the general elections laws contained in Chapter 25 of the Kansas Statutes Annotated which limits the frequency of conducting "question submitted elections."

In regard to limiting the frequency of submitting questions to an election, we find that the legislature has, in certain

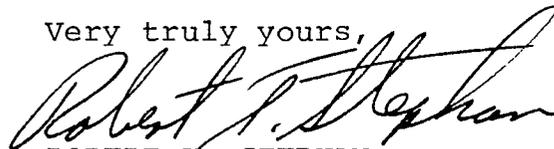
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specific instances, limited the frequency of conducting election in regard to certain proposals. For example, under the provisions of K.S.A. 1979 Supp. 12-3013, which concern initiative and referendum, the legislature has provided: "Any number of proposed ordinances may be voted upon at the same election . . . but there shall not be more than one special election in any period of six (6) months for such purpose." (Emphasis added.) Also, K.S.A. 72-7302(d) provides that no petition for the disorganization of a school district shall be filed sooner than two years after the date of any election for disorganization.

Thus, it is readily apparent that the legislature has imposed restrictions on the frequency of conducting some "question submitted elections." However, it is equally apparent the legislature has not done so in regard to the election provided for in K.S.A. 12-1904. The only "limitation" imposed by the provisions thereof is that an election need be called only if a sufficient number of electors sign a petition calling for the establishment of the system. (See Attorney General Opinions numbered 79-61 and 75-286, copies of which are attached hereto.) However, it appears that if a sufficient number of qualified voters petition for the question to be submitted, an election must be held, notwithstanding the fact the identical question has been submitted to the electors at an earlier date during the same calendar year.

Thus, in response to your specific inquiry, we are of the opinion that, under the provisions of K.S.A. 12-1904, more than one election may be held during a calendar year to determine whether a supervised recreation system should be established, provided, of course, that a petition meeting the requirements of the statute is filed in accordance with the provisions thereof.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General

RTS:BJS:RJB:jm

Enclosures: Attorney General Opinions No. 79-61 and 75-286