



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 88- 58

The Honorable Theo Cribbs
State Representative, Eighty-Ninth District
1551 N. Minnesota
Wichita, Kansas 67214

Re: Cities and Municipalities--Ordinances of
Cities--Subject and Title of Ordinance

Synopsis: K.S.A. 12-3004 prescribes that the subject of an ordinance shall be clearly expressed in its title. Pursuant to this requirement, the title of an ordinance is sufficient if it is broad enough to indicate in general terms the provisions of the ordinance, and it need not include all the details of the ordinance. Under this standard, the subject of charter ordinance no. 93 of the city of Wichita is clearly expressed in its title, and the proposition to adopt said charter ordinance (which referred to the ordinance both by number and title) was properly presented to voters pursuant to Article 12, Section 5 of the Kansas Constitution. Cited herein: K.S.A. 12-3004; Kan. Const., Art. 12, §5.

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Dear Representative Cribbs:

You request our opinion as to whether there is a conflict between the title to charter ordinance no. 93 of the city of Wichita and the text of the ordinance. Additionally, you ask whether those who voted on the adoption of the ordinance were

properly and fairly informed of its effect by the title of the ordinance.

Charter ordinance no. 93 of the city of Wichita bears the following title:

"A CHARTER ORDINANCE CHANGING THE METHOD OF SELECTION OF CITY COMMISSIONERS FROM AT LARGE TO DISTRICTS; EXEMPTING THE CITY OF WICHITA, KANSAS, FROM K.S.A. 25-2110, K.S.A. 25-2110(a) AND K.S.A. 12-1003 AND REPEALING CHARTER ORDINANCE NO. 38."

Your question is whether the portion of the title which indicates it is an ordinance "changing the method of selection of city commissioners from at large to districts," is legally sufficient. In this regard, it should be noted that under the ordinance members of the city commission are nominated from districts and elected at large. Additionally, commission members must be residents of their respective districts at the time of filing for election and thereafter for the duration of their terms.

K.S.A. 12-3004 prescribes, in part, that "no ordinance shall contain more than one subject, which shall be clearly expressed in its title." The requirement that the subject of an ordinance be clearly expressed in its title has been construed as follows by the Kansas Supreme Court:

"The purposes of the constitutional section which is the exemplar for 12-3004 have been stated many times. They include the prevention of a matter of legislative merit from being tied to an unworthy matter, the prevention of hodge podge or log rolling legislation, the prevention of surreptitious legislation, and the lessening of improper influences which may result from intermixing objects of legislation in the same act which have no relation to each other. This court has held these purposes are fulfilled even though a city ordinance does not include in its title all the details of the provisions of the ordinance. It is sufficient if the title is broad enough to indicate in general terms the provisions of the ordinance. . . ."
." Garten Enterprises Inc. v. The City of Kansas City, 219 Kan. 620, 622 (1976).

Applying the principles laid down in the Garten Enterprises case, it is necessary to consider whether the description in the title relating to the new method of selecting city commissioners, i.e. "districts," is legally sufficient. As noted above, charter ordinance no. 93 establishes five commission districts and provides that each commission district shall be represented by one district commission member. Additionally, the ordinance provides that commission members shall be residents of their respective districts at the time of filing for election and thereafter for the duration of the their terms, and that the commission members are to be nominated from districts but elected at large.

In our judgment, the description of the new system as "districts" indicates in general terms the provisions of the ordinance. The ordinance establishes districts, requires nomination from districts, and provides that candidates for each district seat on the commission be residents of their districts (both during the primary and the general election, and thereafter). While the title does not indicate that district commission members are elected at large in the general election, the Garten Enterprises case indicates that an ordinance need not include in its title all the details of the provisions of the ordinance. In our judgment, the at large election of district commission members is one such detail.

In response to your second question, i.e. the adoption of charter ordinance no. 93 by voters, article 12, section 5 of the Kansas Constitution specifically provides for the method of adoption of a charter ordinance:

"The proposition shall be: 'Shall charter ordinance no. _____, entitled (title of ordinance) take effect?'"

As the proposition regarding the adoption of charter ordinance no. 93 complied with the above-quoted form, it is our opinion that it was properly presented to voters.

In summary, it is our opinion that K.S.A. 12-3004 prescribes that the subject of an ordinance shall be clearly expressed in its title. Pursuant to this requirement, the title of an ordinance is sufficient if it is broad enough to indicate in general terms the provisions of the ordinance and it need not include all the details of the ordinance. Under this standard, the subject of charter ordinance no. 93 of the city

of Wichita is clearly expressed in its title, and the proposition to adopt said charter ordinance (which referred to the ordinance both by number and title) was properly presented to voters pursuant to article 12, section 5 of the Kansas Constitution.

Very truly yours,



ROBERT T. STEPHAN
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RTS:JLM:TRH:jm