

ELECTIONS }
PETITIONS } Petitions for amendment of city charter of Kansas City
 should be verified by Board of Election Commissioners
 and certified to city council.

July 6, 1950

FILED
18

Board of Election Commissioners
County Court House
Kansas City 6, Missouri

Gentlemen:

We have received your request for an opinion of this department, which request is as follows:

"On Wednesday, June 21st, there was filed with the Board of Election Commissioners 1525 petitions, the form which is attached hereto, pertaining to the move to change the boundaries of Kansas City, Missouri, to exclude the recently annexed area in Clay County, Missouri. The petitions contained what purport to be the signatures of 32,012 registered qualified electors of Kansas City, Missouri. As of 4:30 p.m. June 21st, there were 212,713 registered qualified electors in Kansas City, Missouri.

"The Board of Election Commissioners, before acting, would like to have an opinion on what the duties of the Board of Election Commissioners are and what the procedure should be in regard to the disposition of these petitions. More specifically, the Board wishes to be advised as to whether or not it is their duty to verify the signatures on the petitions and, if the signatures are to be verified, to what official or officials should the petitions be certified.

"We have been unable to discover any constitutional provisions, statutory enactment or any section in the City's Charter or ordinances which set forth the procedure in regard to the

Board of Election Commissioners

handling of these petitions.

"The petitions purport to act on the authority of Section 20 of Article 6 of the 1945 Missouri Constitution. The recent case of State vs. North Kansas City, 228 S.W. (2d) 762, says that any change in the boundaries in the city by the voters amounts to an amendment of the city charter. Section 487 of the Charter of Kansas City, Missouri, provides:

"This Charter may be amended in the method provided by the Constitution of the State of Missouri, as such Constitution now exists, or may hereafter be amended."

"Section 2 of House Bill 804, approved March 6, 1946, provides:

"Notices of any election provided in said Sections 19 and 20 of Article 6 of the Constitution of Missouri for any amendments thereof, may be given and the form of ballot and details of such election determined, by the Board of the election commissioners or other officials having charge of municipal elections in said cities in accordance with the election laws of this state applicable to elections held in such cities, as they now are or may hereafter be amended."

"Section 7619, Mo. R.S. 1939, provides for a special registration upon submission of the charter to the voters. The Board would also like an opinion as to whether or not this section applies to a charter amendment if it is determined that this proposed change of city boundaries amounts to an amendment of the city charter.

"The Board would like also to know if the responsibility for the expenses relative to handling these petitions is the city's or the city and counties combined. The board would like to have an answer as soon as possible."

Board of Election Commissioners

The petitions are headed as follows:

"Petition for Amendment of the Charter of Kansas City, Missouri, so as to Reduce its Area and Corporate Limits by Excluding Therefrom that Part in Clay County, Missouri, and for an Election Thereon as Provided by Section 20 of Article VI of the 1945 Missouri Constitution."

The petitions propose the enactment of a new Section 4 of Article 1 of the Kansas City Charter, which section defines the corporate limits of the City of Kansas City.

Section 20 of Article VI of the Constitution of Missouri, 1945, provides as follows:

"Amendments of any city charter adopted under the foregoing provisions may be submitted to the electors by a commission as provided for a complete charter. Amendments may also be proposed by the legislative body of the city or by petition of not less than ten per cent of the registered qualified electors of the city, filed with the body or official having charge of the city elections, setting forth the proposed amendment. The legislative body shall at once provide, by ordinance, that any amendment so proposed shall be submitted to the electors at the next election held in the city not less than sixty days after its passage, or at a special election held as provided for a charter. Any amendment approved by a majority of the qualified electors voting thereon, shall become a part of the charter at the time and under the conditions fixed in the amendment; and sections or articles may be submitted separately or in the alternative and determined as provided for a complete charter."

The only statutory provision expressly implementing this constitutional provision which we find is that quoted in your letter as Section 2 of House Bill No. 804, approved March 6, 1946, and which is found in Laws of Missouri, 1945, at page 1309.

Board of Election Commissioners

Under Section 12097, R. S. Missouri, 1939, as amended by House Bill No. 2055 of the Sixty-fifth General Assembly, the Board of Election Commissioners has charge of "all elections, general, special, local, municipal, state, county, all primaries and of all other of every description to be held in such city, or any part thereof, at any time."

The petitions state that they propose an amendment to the charter of the City of Kansas City and on their face they purport to do so. Therefore, in determining the duties of the Board of Election Commissioners in connection with the handling of these petitions, we feel that the Board should consider them to be petitions for the amendment of the charter of the City of Kansas City, Missouri.

The constitutional provision quoted above requires petitions for the amendment of a city charter to be filed with the body or official having charge of the city elections. As above set out, Section 12097 makes the Board of Election Commissioners the body having charge of elections in the City of Kansas City. As such, it has possession of the registration lists and would appear to be the logical body to check and verify the petitions filed with it. Although there is no statute expressly so providing, we feel that in view of the constitutional provisions, the checking of the petitions should be handled by the Board of Election Commissioners. We feel that the petitions should be verified prior to the calling of any election in order to ascertain that they comply with the requirements of Article VI of Section 20 insofar as the required number of signatures is concerned.

Section 20 of Article VI requires the legislative body of the city to provide by ordinance for the submission of the proposed amendment to the vote of the city. In the City of Kansas City the council is the legislative body, and inasmuch as the constitution imposes upon the council the duty of calling the election, we feel that the Board of Election Commissioners should certify the petitions to the city council.

As for your inquiry concerning Section 7619, R. S. Missouri, 1939, that section was repealed by House Bill No. 2058 of the Sixty-fifth General Assembly. That bill repealed Sections 7601 to 7625, inclusive, R. S. Missouri, 1939, and therefore no reference is now required to those provisions in the election on the proposed amendment to the city charter.

As to the matter of the expense of handling the petitions, we perceive no theory under which the costs could be borne by the

Board of Election Commissioners

county. The matter concerns a purely municipal matter and, therefore, the costs must, we feel, be borne by the city.

CONCLUSION

Therefore, it is the opinion of this department that the Board of Election Commissioners of Kansas City should verify the signatures on petitions presented to it proposing the adoption of an amendment to the charter of the City of Kansas City, and if the petitions contained the required number of signatures, certify said petitions to the city council for the calling of an election. The costs of handling said petitions must be borne by the city. Section 7619, R. S. Missouri, 1939, having been repealed by House Bill No. 2058 of the Sixty-fifth General Assembly, the provisions of that section need no longer be considered.

Respectfully submitted,

ROBERT R. WELBORN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General