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STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

October 11, 1974

Opinion No. 74- 338

Charles E. Sims
State Librarian
Kansas State Library
535 Kansas, 4th Floor
Topeka, Kansas 66612

Dear Mr. Sims:

Section 1, ch. 382, L. 1974, provides in pertinent part concerning the distribution of monies in the grant-in-aid to libraries fund:

"The total amount in the fund shall be distributed two-thirds to the local public libraries on the basis that the population of each of the local districts bears to the total population of all local public library districts in Kansas"

Section 2(a), ch. 381, L. 1974, states thus:

"'Local public libraries' means Kansas libraries operating under the provisions of K.S.A. 12-1215 to 12-1248 inclusive, and acts amendatory thereof and supplemental thereto"

You inquire concerning the meaning of the phrase "total population residing within its district." The "district" comprises the territorial jurisdiction of the governing body or bodies under whose authority the library is organized. E.g., under K.S.A. 12-1218 et seq., a "municipality," meaning either a county, township or city, may establish and maintain a library. In such an instance, the "district" is the territorial jurisdiction of the "municipality." When a regional library has been organized under K.S.A. 12-1231, the "district" shall comprise the territorial jurisdiction of the cooperating bodies.

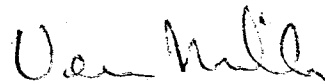
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K.S.A. 12-1230 states thus:

"The governing body of any municipality not maintaining a library may contract with any library for the furnishing of library service to such municipality, and to pay the costs of such library service the municipality is hereby authorized to levy a tax in the amount authorized to be levied by such municipality for the establishment and maintenance of a library."

You inquire whether, for example, if a city library receives funds from the county commission but a county library has not been legally established, the city's "district" population becomes that of the county. In our opinion it does not. In such an instance, the library was established under the authority of the city, the board constitutes a body corporate and politic under K.S.A. 12-1223, and the area taxed by the governing body for the support of the library remains the area of the city. A contract for library services does not in and of itself enlarge the size of the library district, but is merely that, a contract for services. In our opinion, the population of the contracting municipality, which has no library or library district of its own, may not for the purposes of distribution under chs. 381 and 382, L. 1974, be deemed to included within the population of a lawfully organized and constituted library district, merely by virtue of a contract for library services.

Yours very truly



VERN MILLER
Attorney General

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