

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 24, 1977

ATTORNEY GENERAL OPINION NO. 77-168

Ms. Ernestine Gilliland
Kansas State Librarian
Kansas State Library
535 Kansas Avenue
Topeka, Kansas 66603

Re: Cities--Libraries--Levies

Synopsis: 1977 House Bill 2470 does not alter the schedule for budget adoption of libraries subject to K.S.A. 12-1215, as amended. A resolution adopted thereunder providing for a levy in excess of 2.5 mills should state that the board determines that the current tax levy is insufficient, declare the necessity of increasing the total annual levy to the desired mill rate, and state the total annual amount of the tax to be levied for library purposes. A board need not immediately utilize all the levy authority provided by such a resolution, but may levy an amount in excess of 2.5 mills, but below the maximum rate authorized by such resolution.

* * *

Dear Ms. Gilliland:

You inquire concerning K.S.A. 12-1215, as amended by 1977 House Bill 2470. Prior to amendment, this section authorized a levy of not to exceed 2.5 mills for the maintenance and support of the library. The amendment provides that whenever the board of directors desires to increase the levy above 2.5 mills, and it determines that the current tax levy is insufficient to maintain and support the library, it may adopt a resolution

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"declaring it necessary to increase such annual levy in an amount which together with the current levy shall not exceed a total of four (4) mills."

The resolution shall state the total amount of the tax to be levied for library purposes, and shall be published once each week for three consecutive weeks in the official city newspaper. Thereafter, a levy within the amount authorized by the resolution may be made unless a sufficient petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy is filed within 60 days following the date of the last publication of the resolution.

You inquire what "calendar schedule should be followed for the full budget process." Nothing in this bill alters the calendar schedule for the adoption of budgets of libraries covered by K.S.A. 12-1215 as amended. If it is proposed to adopt a resolution authorizing a levy in excess of 2.5 mills, and a timely and sufficient petition is filed, the levy may not be made until an election is held on the question. If a resolution calling for an increased levy is adopted, the anticipated funds are included in the budget which is adopted in August and the increased levy is certified to the county clerk on August 25, no such increase may be made by the county clerk if a sufficient and timely petition is filed, unless an election is held on the question and the levy is approved by the voters.

If the resolution is adopted on June 1, for example, it must be published thereafter for three consecutive weeks, and a petition may be filed within the sixty days thereafter. The sixty-day period will extend nearly to August 25, thus. In my judgment, the Board may include the anticipated increased funds in its budget, and certify the increased levy to the county clerk on August 25, as required by the statute, notwithstanding the sixty-day petition period has not expired. If a petition is filed within the sixty-day period, but after the increased levy is certified, an election must be held prior to making the increased levy. If no election is held in sufficient time prior to preparation of the tax statements, the county clerk will be required to reduce the levy to the maximum permitted by law at that time, 2.5 mills.

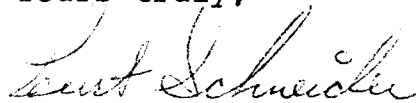
Secondly, you ask what is the proper statement of the resolution which must be published. The resolution should state that the board determines that the current tax levy is insufficient to

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maintain and support the library, declare the necessity of increasing the total annual levy to the desired mill rate, and state the total annual amount of the tax to be levied for library purposes.

Lastly, you inquire whether it is permissible to publish a resolution identifying a levy increase sufficient to accommodate several years' growth. For example, a library which is now levying 2.5 mills might now need increased revenue, but would not need the total amount to be raised by a 4 mill levy. If a resolution is adopted which provides for not to exceed a 4 mill levy, for example, the board of directors is not required to utilize immediately its full levy authority, and might levy an amount in excess of 2.5 mills, but still less than the total amount authorized by the resolution.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj