



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 6, 1977

ATTORNEY GENERAL OPINION NO. 77- 328

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

Re: Libraries--Regional System--Taxation

Synopsis: The territory of a taxing subdivision or district situated within a regional library system is subject to the tax levied by the regional system pursuant to K.S.A. 75-2550 unless said subdivision is "supporting a library with funds of such district." The fact that a local subdivision makes a levy for library purposes does not exempt the taxable property in said subdivision from the system tax unless the proceeds of said local library levy are in fact applied to the support of a public library therein.

* * *

Dear Ms. Gilliland:

You inquire whether a regional library system, organized pursuant to K.S.A. 75-2547 et seq., is authorized to levy a system tax upon territory within the regional system, within which territory a library tax is levied, but in which no library in fact exists. K.S.A. 75-2551 provides in pertinent part thus:

"Each system board is hereby authorized to levy not in excess of one-half (1/2) mill of tax to be used for library purposes on

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all of the taxable property within the boundaries of such regional system of cooperating libraries that is not within a district supporting a library with funds of such district."

If a taxing subdivision is making a levy for library purposes, but is not in fact supporting a library, in such subdivision by that levy, the system is authorized to levy a system tax on the taxable property within that subdivision.

The act providing for regional library systems was passed in 1965 for the avowed purpose, as set out at K.S.A. 75-2547,

"for the state in cooperation with local libraries to provide adequate library services to all citizens of the state through the regional systems of cooperating libraries herein provided, by use of joint planning and financing of library services to improve existing service, to utilize such federal aid funds as may be available and to extend library service to persons not having the same at this time."

There are a number of provisions throughout the act which recognize and encourage local tax effort for library purposes. Under K.S.A. 75-2549, the regional system shall be

"comprised of territory which includes one or more counties, except territory supporting a library regularly subject to a tax levy of one-fourth (1/4) mill or more shall be excluded from the proposed regional system upon request of the governing body of the district making such levy." [Emphasis supplied.]

Similarly, in K.S.A. 75-2550, in acting upon a petition for formation of a regional system, the Commission must

"exclude the territory of any taxing district which regularly levies one-fourth (1/4) or

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more mills of tax for the support of a public library upon the request of the governing body of the district making such levy."

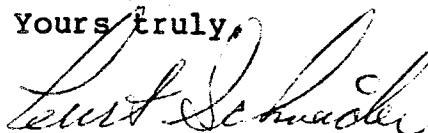
Thus, no territory is entitled to exclusion from a regional system unless it demonstrates a satisfactory measure of local taxing effort for the support of its own library, i.e., unless it regularly levies at least one-fourth mill for the support of its library. Once included in a system, a taxing subdivision may seek exclusion only if it "regularly levies one-fourth mill or more of tax for the support of a public library."

If a taxing district within a regional system does not in fact maintain and support a public library, it is not entitled to exclusion or withdrawal from a regional system, and it is not a "district supporting a library with funds of such district" within which the regional system may not levy a system tax under K.S.A. 75-2551, supra. If a taxing district is in fact making a levy for the support of a public library, but does not in fact devote the proceeds of that levy to that purpose, it may be in violation of Article 11, § 5 of the Kansas Constitution, which states thus:

"No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied."

Whatever disposition is being made of the proceeds of the library tax levied by the local subdivision, if it is not in fact supporting a public library therein for the use of its own residents, the taxable property therein remains subject to the system tax authorized by K.S.A. 75-2550.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj