



STATE OF KANSAS

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August 19, 1982

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ATTORNEY GENERAL OPINION NO. 82-180

John Travison  
Chairman of Library Board  
Louisburg Library District No. 1  
P. O. Box 398  
Louisburg, Kansas 66053

Re: Cities and Municipalities -- Libraries -- Library  
District; Donation of Moneys by Township

Synopsis: A library district may be established as provided by K.S.A. 12-1236 et seq. Financial support of such a district is provided by a mill levy of up to 1 1/2 mills upon all property located within the district pursuant to K.S.A. 12-1247. In the absence of any express authority by statute or authority under home rule, a township which is contained within the district's boundaries cannot contribute moneys to the district or to a civic organization formed in support thereof. However, if the township lies outside the boundaries of the district, it may enter into an agreement with the district for the furnishing of library services. Such an agreement would be within the implied power of the township under K.S.A. 12-1219 to provide library services to residents. Cited herein: K.S.A. 12-1219, K.S.A. 1981 Supp. 12-1234, K.S.A. 12-1236, 12-1238, 12-1247, 12-1248, K.S.A. 1981 Supp. 12-2904.

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Dear Mr. Travison:

As Chairman of the Board of Directors of Louisburg Library District No. 1, you request our opinion on a question concerning financial support of the district by townships. Specifically, you inquire whether townships may contribute money

to the district in support of its operations. Alternatively, you inquire whether it is permissible for the townships to purchase books or materials and then donate them to the district.

We are informed that the district was formed in 1968 following the submission of a petition under K.S.A. 12-1236. Including the same territory as Unified School District No. 416, the district is governed by a board of directors chosen at the annual meeting. (K.S.A. 12-1238.) Funding for the district is provided by the imposition of a mill levy (currently set at 1 1/2 mills) upon all territory in the district. (K.S.A. 12-1247.) In that the moneys raised in this manner are less than totally sufficient to allow the district to operate as it would like, other funding sources are being explored. Among these are the raising of donations by a local "Friends of the Library" group, and the receipt of grants from various governmental units. While the district is specifically authorized to accept grants from the state or federal government or any agencies thereof (K.S.A. 12-1248), no mention is made of contributions by townships, and the absence of such specific authority has prompted your request.

Initially, we would note that the district as constituted comprises a separate taxing district which has been imposed on top of existing taxing units such as the City of Louisburg and the surrounding townships. This is in contrast to a regional library system established pursuant to K.S.A. 1981 Supp. 12-1231 et seq., where two or more adjoining counties or townships jointly create and support a central library facility. There, each participating unit is assessed a portion of the cost of running the system, which assessment may be raised through a mill levy. (K.S.A. 1981 Supp. 12-1234.) In that case, there would be little question that a participating township could make additional contributions from its budget to the district, beyond that contained in the library mill levy itself, as the township would be receiving services from the district directly.

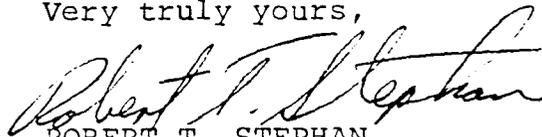
In the present situation, the townships which are contained within the library district, either in whole or in part, have no direct connection with the district through the operation of any statute. Neither do they possess the power of local home rule which this office has previously found to be determinative in similar situations involving cities and counties. (Attorney General Opinion Nos. 79-236, 79-257.) In those cases, we concluded that the local units' home rule powers allowed the expenditure of revenue sharing funds for a wide range of civic and cultural purposes. Not being possessed of such authority, however, a township is subject to the general rule that governmental units, being creatures of

statute, have only such powers as are conferred on them by statute. Paul v. Topeka Township Sewer Dist. No. 2, 199 Kan. 394 (1967). As no statute authorizes a township to give funds or materials to a library district such as that involved here, in our opinion such action would be beyond a township's powers.

Given this lack of authority, few possible avenues exist for the transfer of moneys from a township to the district. However, a township which is not contained within the district could, pursuant to implied authority under K.S.A. 12-1219, enter into an agreement with the district. Under the terms of such an agreement, a township could contract with the district for the furnishing of library services to township residents, thus providing library services to its inhabitants as authorized by K.S.A. 12-1219. The district, in return, would be paid a specified sum which it could use to maintain or expand its operations.

In conclusion, a library district may be established as provided by K.S.A. 12-1236 et seq. Financial support of such a district is provided by a mill levy of up to 1 1/2 mills upon all property located within the district pursuant to K.S.A. 12-1247. In the absence of any express authority by statute or authority under home rule, a township which is contained within the district's boundaries cannot contribute moneys to the district or to a civic organization formed in support thereof. However, if the township lies outside the boundaries of the district, it may enter into an agreement with the district for the furnishing of library services. Such an agreement would be within the implied power of the township under K.S.A. 12-1219 to provide library services to residents.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
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RTS:BJS:JSS:hle