



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 89- 69

Duane F. Johnson
State Librarian
Kansas State Library
State Capitol, Third Floor
Topeka, Kansas 66612-1593

Re: State Departments; Public Officers and
Employees--State Library and Library
Services--Regional System of Cooperating Libraries;
Levy Authority

Synopsis: A regional system of cooperating libraries may levy
in a county within its boundaries due to the
participation of a school district library located
in the county. Territory of the county may be
excluded from the system, and thus the tax,
pursuant to K.S.A. 75-2550. Cited herein: K.S.A.
75-2548; 75-2549b; 75-2550; 75-2551.

* * *

Dear Mr. Johnson:

You request our opinion regarding the participation of a
school district library in a regional system of cooperating
libraries. You question whether such participation enables
the regional system to levy in the county in which the school
district is located.

The regional system in question is the Northwest Kansas
Library System (NWKLS). This system's territory includes
the counties of Trego, Gove, Logan, Wallace, Graham,
Sheridan, Thomas, Sherman, Norton, Decatur, Rawlins

and Cheyenne. K.S.A. 75-2549b. The school district in question is located in Norton County. The school district library, and thus North County, was admitted to the NWKLS pursuant to the petition process of K.S.A. 75-2550. Its territory has not since been excluded from the system.

K.S.A. 75-2548(b) defines "participating library" as a library that is cooperating or participating in a regional system of cooperating libraries. Subsection (e) defines "library" to include school libraries. Thus, the statute appears to contemplate the ability of a school district library to participate as a member of a regional system. The statutes do not differentiate between school district libraries and county, city or township libraries.

K.S.A. 75-2551 provides in part:

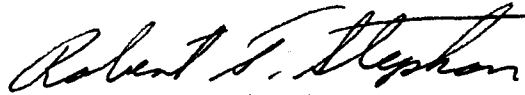
"The system board shall be subject to the cash basis and budget laws of the state. The budget of the system board shall be prepared, adopted and published as provided by law and hearing shall be held thereon in the first week of the month of August of each year. The tax levy made pursuant to the budget shall be certified to the county clerks of each county in the territory of the regional system of cooperating libraries.

"Each system board is hereby authorized to levy not in excess of 3/4 mill of tax to be used for library purposes on all of the taxable property within the boundaries of the regional system of cooperating libraries that is not within a district supporting a library with funds of the district."

In Opinion No. 73-312, Attorney General Schneider interpreted this language and concluded that "until [a taxing district] has been duly excluded from the regional system, it remains within the boundaries of the regional system, and is subject to its tax levy, notwithstanding it is also within a district which levies a tax for the support of another public library." VIII Opinions of the Attorney General, 132, 133 (1973). See also Attorney General opinion No. 87-108. Other statutes indicate that all of the territory of a county which contains a participating library is included within the

taxing district of the regional system except for territory which has been properly excluded. K.S.A. 75-2549; 75-2550. We believe the statutes are clear in authorizing the board of a regional system of cooperating libraries to levy in a county which is within its boundaries, regardless whether the only participating library in the county is a school district library. The only exception is for territory which has been properly excluded pursuant to K.S.A. 75-2550.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm