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August 1, 1979

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ATTORNEY GENERAL OPINION NO. 79-164

Ms. Ernestine Gilliland
State Librarian
Kansas State Library
Third Floor, State Capitol
Topeka, Kansas 66612

Re: State Departments--State Library--Grants-in-Aid
to Local and Regional Libraries

Synopsis: In determining a local public library's eligibility for state grants-in-aid pursuant to K.S.A. 75-2556, local ad valorem tax reduction fund moneys may not be considered in measuring the local tax effort. Such effort is based solely on ad valorem tax levies. (Affirming Attorney General Opinion No. 79-60.)

* * *

Dear Ms. Gilliland:

You have asked us to clarify Attorney General Opinion No. 79-60, which we issued to you on April 17, 1979. It is our understanding that your request is prompted by a letter you received from John A. Strain, C.P.A., questioning one of the conclusions reached in our previous opinion.

In this prior opinion, we concluded that a local public library's eligibility for state grants-in-aid pursuant to K.S.A. 75-2556 is based on a comparison of the respective amounts of revenue produced by the ad valorem tax levies for such library from one year to the next, and that a library's receipts from previously unpaid taxes or unencumbered balances carried forward may not be considered in ascertaining whether such library has maintained the local tax effort required for state aid eligibility.

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You advise that Mr. Strain takes exception to the foregoing conclusion, arguing that the statute requires only that a local library maintain its "local effort," which would include back taxes and local ad valorem tax reduction fund (LAVTRF) moneys in addition to current ad valorem tax levies. Because of the following pertinent provisions of K.S.A. 75-2556, we cannot agree with Mr. Strain's suggestion:

"No local public library shall be eligible for any state grants-in-aid if the amount produced by the local ad valorem tax levies for the current year expenses for such library is less than the amount produced by the ad valorem tax levy for the same library for the previous year: Provided, however, That in those local public library districts when the assessed valuation decreases, such district shall remain eligible for state grants-in-aid so long as the ad valorem tax levy has not been reduced below the levy imposed the previous year."

It is abundantly clear from the foregoing statutory provisions that eligibility for state aid is to be measured by current ad valorem tax receipts, in comparison with such receipts of the prior year. As noted in Opinion No. 79-60, "[w]e cannot construe such language as requiring or permitting any unencumbered balances carried forward or receipts from previously unpaid taxes as being included in the amount produced by taxes levied for the current year's expenses." Nor can we construe these provisions as contemplating the substitution of LAVTRF moneys for moneys which could be generated by ad valorem tax levies.

What Mr. Strain suggests would provide a very logical basis for measuring local tax effort, had the legislature chosen to define it in terms of the total amount of revenues utilized to defray a local public library's current expenses, regardless of the source of such revenues. The fact remains, however, that local tax effort is not so defined by the statutory provisions quoted above, and we are constrained from interpreting these provisions so as to achieve a result (meritorious as it may be) that is contrary to the meaning of its plain and unambiguous language.

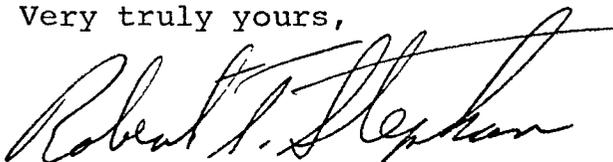
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In concluding, we call to your attention Attorney General Opinion No. 75-324, which was issued to you by Attorney General Schneider on August 11, 1975. In response to your inquiry whether local sales tax revenues were includable as part of this local tax effort under K.S.A. 75-2556, Attorney General Schneider stated:

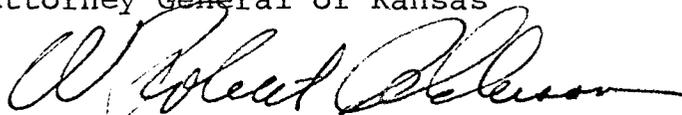
"[T]he local tax effort, under this statute, must be based on local ad valorem tax levies. The sales tax is not, of course, an ad valorem tax. Thus, a reduction in receipts from ad valorem tax levies will jeopardize a district's continued eligibility for grants-in-aid, notwithstanding it has increased receipts from local sales tax revenues."

The conclusion expressed in our Opinion No. 79-60, as well as the reiteration thereof in this opinion, is certainly consistent with the rationale of the foregoing excerpt from Opinion No. 75-324. We trust that this consistency of interpretation will aid you in administering the statutes providing grants-in-aid to local and regional libraries.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



W. Robert Alderson
First Deputy Attorney General

RTS:WRA:gk