



STATE OF KANSAS

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February 15, 1980

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ATTORNEY GENERAL OPINION NO. 80- 48

Mr. Richard J. Rathbun II
Comanche County Attorney
215 East Main
Coldwater, Kansas 67029

Re: Cities and Municipalities--Libraries--
Regional Libraries and District Libraries

Synopsis: A library cooperatively established by adjoining townships pursuant to K.S.A. 80-804 (repealed, L. 1969, ch. 469, §1) may not be classified either as a regional library under K.S.A. 12-1231 or as a district library under K.S.A. 12-1236 by operation of law. However, local electors may take such steps as are prescribed by either of the latter cited statutes to establish a library under the scheme deemed most beneficial to the community.

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Dear Mr. Rathbun:

You advise that some years ago several adjoining townships in Comanche County cooperatively established a library under the provisions of K.S.A. (then G.S. 1949) 80-804. As you have correctly noted, new legislation pertaining to libraries, including libraries to be jointly operated by townships, was enacted in 1951. (L. 1951, ch. 485.) In the same 1951 act, statutes relating to libraries operated by individual townships (G.S. 1949 80-301 to 80-303, inclusive) were repealed.

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(L. 1951, ch. 485, §24.) Interestingly, however, K.S.A. 80-304 was not repealed in 1951, but remained in effect until its repeal in 1969. (L. 1969, ch. 469, §1.)

The 1951 act has since been codified as K.S.A. 12-1218 et seq. K.S.A. 12-1231 provides for the establishment of regional libraries by any two or more counties or any two or more townships, upon the approval of the electorate of each political subdivision in the proposed region. K.S.A. 12-1236 empowers cities of the third class to join with one or more townships to create a library district to be governed by a board of directors. You inquire as to which of these statutes governs a library created and operated pursuant to the former K.S.A. 80-804.

In our opinion, neither K.S.A. 12-1231 nor 12-1236 govern the library about which you inquire and we conclude that it may not be classified either as a regional library or a district library, by operation of law. Although K.S.A. 12-1219 specifically provides that any library established and maintained "by a municipality" before the 1951 legislation was enacted "shall be maintained in accordance with the provisions of this act [K.S.A. 12-1218 et seq.]," that statute is not applicable to libraries established and maintained by more than one municipality, by its express terms. We are aware of no similar savings clause applicable to libraries operated by two or more townships or other municipalities elsewhere in the act.

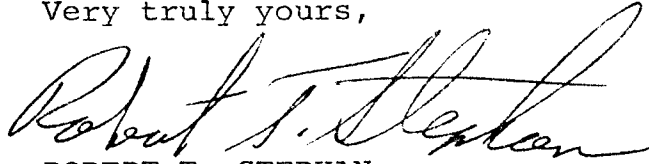
Moreover, since the legislature left K.S.A. 80-804 intact when it enacted K.S.A. 12-1218 et seq. in 1951, the law presumes that the legislature thereby expressed its intention that the 1951 act should have no application to libraries created and governed by the statute in question. That the legislature subsequently repealed K.S.A. 80-804, as noted above, is of no particular significance, since the legislature has made no apparent effort, either in 1951 or in 1969, to coordinate or harmonize the statute in question with the 1951 act.

In summary, we conclude that K.S.A. 12-1231 and 12-1236 have no automatic application to a library formed pursuant to K.S.A. 80-804 and that such a library may not be classified either as a regional library or as a district library by

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operation of law. However, local electors may take such steps as are prescribed by either K.S.A. 12-1231 or 12-1236 to establish a library under the scheme deemed most beneficial to the community.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert T. Stephan". The signature is fluid and cursive, with a large, sweeping initial "R".

ROBERT T. STEPHAN
Attorney General of Kansas

A handwritten signature in dark ink, appearing to read "Steven Carr". The signature is cursive and somewhat stylized, with a prominent "S" and "C".

Steven Carr
Assistant Attorney General

RTS:WRA:SC:gk