



STATE OF KANSAS

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February 19, 1980

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ATTORNEY GENERAL OPINION NO. 80- 50

Mr. Robert D. Beall
Attorney at Law
P. O. Box 369
818 N. 7th Street
Leavenworth, Kansas 66048

Re: State Departments--State Library--
Withdrawal from Regional System of
Cooperating Libraries

Synopsis: A city which participates in a regional system of cooperating libraries without a library of its own may withdraw from said system only by following the procedures set out in K.A.R. 54-1-21, namely that an additional levy of one-fourth mill or more must be levied for two consecutive years for the support of a public library before a petition for exclusion may be filed. During this time, such levy is in addition to any levy imposed by the regional system pursuant to K.S.A. 75-2551.

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Dear Mr. Beall:

In behalf of the City of Lansing, you have requested the opinion of this office on a question which concerns the withdrawal of a city from a regional system of cooperating libraries. Specifically, you inform us that Lansing wishes to have its library services provided by the library in Leavenworth, and also wishes to pay for such service with

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the mill levy its taxpayers now contribute to the regional system. Accordingly, it seeks to withdraw from the system. Your inquiry concerns whether a statutory basis exists for it to do so.

Although it does not have a library of its own at the present time, the City of Lansing contributes to the Northeast Kansas Library System, a regional system of cooperating libraries established pursuant to K.S.A. 75-2547 et seq. Currently a levy of 1/2 mill is imposed on property in the city for membership in, and the purchase of services from, the regional system pursuant to K.S.A. 75-2551. Your question concerns the way in which the city may withdraw from the system and contract for these services with the library in nearby Leavenworth.

The withdrawal of a "taxing district" such as the City of Lansing from a regional system of cooperating libraries is authorized by K.S.A. 75-2550, to-wit:

"Any taxing district which regularly levies one-fourth mill or more of tax for the support of a public library, and which taxing district has been included in a regional system, may petition to be excluded from the regional system. Such petition shall be made and presented to the state commission. The state commission shall consider any such petition and if such taxing district meets the requirement for making such a petition and if excluding such taxing district from the regional system will do no manifest harm thereto, the state commission may enter its order excluding and detaching such taxing district from the regional system . . ."
(Emphasis added.)

This procedure has been amplified upon by one of the administrative regulations which have been adopted pursuant to K.S.A. 75-2552. More precisely, K.A.R. 54-1-21 states:

"When a public library taxing district levying less than one-fourth mill of tax at the time of inclusion as a part of a regional system of cooperating libraries, levies one-fourth mill or more of tax support for a public library for a period of not less than two consecutive years, the governing body of the taxing district of such public library may petition for exclusion from the taxing district of the regional system of cooperating libraries in the manner prescribed under rule and regulation 54-1-17." (Emphasis added.)

It may be seen from the above that the regulation has interpreted the phrase "regularly levies" in K.S.A. 75-2550 to mean not less than two consecutive years--a conclusion which appears justified by the language used.

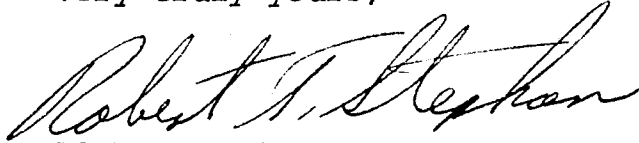
These provisions would appear to have application in the present situation. We note that in order for the exclusion to be made, the city will have to impose a levy of one-fourth mill or more, for a period of not less than two consecutive years, for the support of the public library in Leavenworth (albeit indirectly through a contract for services). Once this is done, a petition may be filed to exclude the taxing district (i.e., the city) from the regional system, thus relieving its taxpayers from their payment of one-half mill to the latter entity. In essence, this procedure requires that the people of Lansing be subject to two different levies for the support of libraries for the two-year change-over period. However incongruous this result, this appears to be the only way under present law that a city without a library may withdraw from a regional system. If Lansing in fact had a library of its own, the procedures under K.A.R. 54-1-12 through 54-1-14 or K.A.R. 54-1-17 would be available.

In conclusion, a city which participates in a regional system of cooperating libraries without a library of its own may withdraw from said system only by following the procedures set out in K.A.R. 54-1-21, namely that a tax levy of one-fourth mill

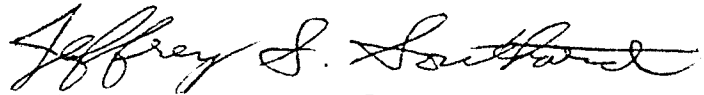
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or more must be levied for two consecutive years for the support of a public library before a petition for exclusion may be filed. During this time, such levy is in addition to any levy imposed by the regional system pursuant to K.S.A. 75-2551.

Very truly yours,

A handwritten signature in cursive script, reading "Robert T. Stephan".

ROBERT T. STEPHAN
Attorney General of Kansas

A handwritten signature in cursive script, reading "Jeffrey S. Southard".

Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:gk