



STATE OF KANSAS

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March 12, 1982

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ATTORNEY GENERAL OPINION NO. 82-63, _____

Martha J. Tucker
Acting State Librarian
State Library of Kansas
Third Floor - Capitol
Topeka, Kansas 66612

Re: State Departments -- State Library -- Distribution
of Grants-In-Aid; Eligibility of Local Public
Libraries

Synopsis: K.S.A. 75-2553 et seq., provide a procedure by
which the Kansas State Library may make grants-in-
aid to local public libraries. Eligibility for
such grants is determined by comparing the local
financial support of a library in the current year
with such local support in the previous year. If
the amount has decreased for any reason the dis-
trict is ineligible for grants-in-aid, except
where a decline in the assessed valuation of the
district occurs and the ad valorem tax mill rate
for the support of the library has not been re-
duced below the mill rate imposed in the previous
year. This restriction on eligibility for state
grants applies both to libraries which are under
mill rate limits set by statute and those which
have had such limits removed through the exercise
of home rule authority by a city or county. Cited
herein: K.S.A. 1981 Supp. 75-2553, 75-2556,
75-2557, 75-2559, K.S.A. 1981 Supp. 79-1947, K.S.A.
79-1951, 79-1952, 79-1953, Kan. Const., Art. 12,
§5.

* * *

Dear Ms. Tucker:

As Acting State Librarian, you have requested our opinion on
a question concerning the grants-in-aid program to local pub-
lic libraries. Specifically, you inquire whether the sta-
tutes as they now read distinguish between libraries which

use mill rates established by statute and those which have been freed to set higher levels by the exercise of home rule power. While you do not so state, we assume that libraries are in the latter class by virtue of action by a city or county, in that library districts themselves do not possess home rule authority. K.S.A. 19-101, et seq.; Kansas Constitution, Article 12, Section 5.

The act establishing the grants-in-aid program is found at K.S.A. 75-2553, et seq. K.S.A. 1981 Supp. 75-2556 sets forth the formula which is used in determining whether a local public library is eligible for grants-in-aid funds, to wit at (c):

"(c) No local public library shall be eligible for any state grants-in-aid if the total of:

"(1) The amount produced by the local ad valorem tax levies for the current year expenses for such library;

"(2) the amount of moneys received from the local ad valorem tax reduction fund for current year expenses for such library;

"(3) the amount of moneys received from taxes levied upon motor vehicles under the provisions of article 51 of chapter 79 of the Kansas Statutes Annotated for current year expenses for such library; and

"(4) the moneys received in the current year from collections of unpaid local ad valorem tax levies for prior year expenses for such library is less than the total amount produced from such sources for the same library for the previous year."

The sole exception to this provision (i.e., no money is given if the total of the four funds declines) is found at K.S.A. 1981 Supp. 75-2556(d), which states:

"[L]ocal public library districts in which the assessed valuation decreases shall remain eligible for state grants-in-aid so long as the ad valorem tax mill rate for the support of such library has not been reduced below the mill rate imposed for such purpose for the previous year."

The effect of this section is to alleviate the result which would otherwise occur under (c), namely the situation where

a local public library would become ineligible for state aid due to a decrease in property valuation. However, it may be noted that if the moneys received decline due to the voluntary action of reducing the mill rate, the state will not act to pick up the shortfall so created.

For many local public libraries, the mill rate at issue is set by K.S.A. 1981 Supp. 79-1945, et seq. For counties, the rate is set at 1.5 mills, with those counties designated as urban areas allowed 2 mills. K.S.A. 1981 Supp. 79-1947. Cities are likewise allowed 2 mills (K.S.A. 79-1951, 79-1953), with the exception of second-class cities, which are allowed 3 mills. K.S.A. 79-1952. Inasmuch as these limits are not uniformly applicable to all counties and cities (see, e.g., Kansas Attorney General Opinion No. 81-134), they are susceptible to being altered through the exercise of city and county home rule powers. City of Junction City v. Griffin, 227 Kan. 332 (1980). Accordingly, a number of counties and cities have opted, through their respective home rule powers, to set their own mill rates for the support of local libraries.

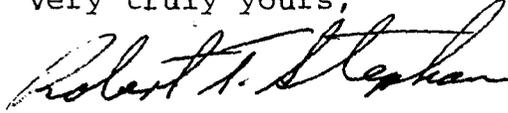
In light of this fact, you inquire whether the provisions of K.S.A. 75-2556, as amended, apply with equal force to "home rule" libraries and to those which still operate under the statutory mill rate limits. You base this question on the wording of K.S.A. 1981 Supp. 75-2556(d), in which a library continues to be eligible as long as the "mill rate imposed" for library support has not been decreased. In our opinion, no distinction between cities and counties operating by statute and those operating by ordinance is warranted. The wording of the statute applies equally to a city operating at the statutorily imposed mill limit which makes a reduction as to a city operating under a self-imposed limit which takes the same action. The practical effect of such reductions is the same for both classes of cities and counties, and the legislative objective, namely preventing the use of state grants-in-aid money to fund normal operating expenses which were previously paid by ad valorem tax revenues, is achieved.

In conclusion, K.S.A. 75-2553 et seq., provide a procedure by which the Kansas State Library may make grants-in-aid to local public libraries. Eligibility for such grants is determined by comparing the local financial support of a library in the current year with such local support in the previous year. If the amount has decreased for any reason the district is ineligible for grants-in-aid, except where a decline in the assessed valuation of the district occurs and the ad valorem tax mill rate for the support of the library has not been reduced below the mill rate imposed in the previous year. This restriction on eligibility for state grants

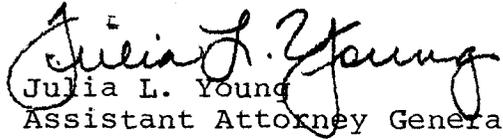
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applies both to libraries which are under mill rate limits set by statute and those which have had such limits removed through the exercise of home rule authority by a city or county.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Julia L. Young
Assistant Attorney General

RTS:BJS:JLY:hle