



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

June 29, 1983

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ATTORNEY GENERAL OPINION NO. 83- 99

Larry Lister
Township Trustee
Dover Township
13760 S.W. 69th Street
Topeka, Kansas 66604

Re: Cities and Municipalities--General Provisions--
Local-Option Gross Earnings Tax

Synopsis: Any election which was otherwise conducted in accordance with the provisions of subsection (e) of K.S.A. 12-1,101, as amended by section 1(e) of 1983 House Bill No. 2023, but which was held on April 5, 1983, was declared valid by the legislature in that subsection of law. As the election in Dover Township, Shawnee County, on the proposition set-forth in K.S.A. 12-1,101(e), as amended, is conceded to have been conducted in accordance with the provisions of that subsection of law, said election is valid pursuant to legislative declaration. Cited herein: K.S.A. 12-1,101, as amended by section 1 of 1983 House Bill No. 2023.

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Dear Mr. Lister:

On behalf of the Board of Trustees of Dover Township, Shawnee County, you seek our opinion on whether the election held in said township on April 5, 1983, concerning whether the gross earnings tax of the township should be eliminated, is valid.

You note that subsection (e) of K.S.A. 12-1,101 was amended by 1983 House Bill No. 2023. The law now provides that if a

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petition in proper form and containing the requisite number of signatures is submitted to the governing body of a township requesting that the proposition set-forth in that subsection of the statute be submitted to the electors of the township, then "the governing body of such taxing subdivision shall be required to submit to the electors of such taxing subdivision at the next state general election or general election held for the election of officers of such taxing subdivision," the proposition set-forth in this subsection of the statute. (Emphasis added.)

You suggest that, since the April 5, 1983, election at which the question prescribed in K.S.A. 12-1,101(e) [now repealed, see section 6 of 1983 H.B. 2023] was submitted to, and approved by, the voters of Dover Township, was not a state general election or a general election held for the election of township officers, the election on this question was not valid.

The question of whether this election was held at one of the times now prescribed in K.S.A. 12-1,101(e), is moot as a result of legislative action. In amending K.S.A. 12-1,101(e), in section 1(e) of 1983 House Bill No. 2023, the legislature added the following language:

"Any election which was otherwise conducted in accordance with the provisions of this subsection but which was held on April 5, 1983, on any proposition which is submitted to the electors of a township by the governing body of such township pursuant to a petition submitted under this subsection is hereby declared valid."

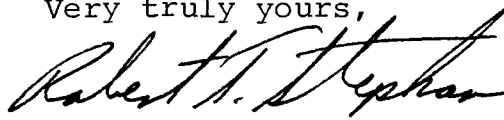
Thus, while the 1983 Legislature amended subsection (e) of K.S.A. 12-1,101 to clearly specify the elections at which the proposition set-forth therein is authorized to be submitted to the electors of the respective taxing subdivisions, it also validated certain previously-held elections complying with the above-quoted language.

You do not assert that the election on the proposition set-forth in this statute, and which was held on April 5, 1983, was not otherwise conducted in accordance with the provisions of subsection (e) of this statute. Thus, we assume you concede the election in Dover Township was such as is described in, and

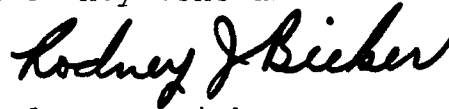
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governed by, the above-quoted language. With this conceded, there can be little question of the election's validity, as the legislature has declared the same to be valid.

Very truly yours,



ROBERT T. STEPHAN
Attorney General



Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm