



STATE OF KANSAS

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July 27, 1984

ATTORNEY GENERAL OPINION NO. 84- 76

J. R. Eland  
City Attorney  
Hoxie, Kansas 67740

Re: Cities and Municipalities--Buildings, Structures  
and Grounds--Acquisition or Construction of Public  
Buildings; Tax Levy

Synopsis: A city may levy a tax to create a library building fund under the provisions of K.S.A. 12-1737(d), but the power to levy a tax pursuant to that statute expires after the levy has been made for a period of 10 years. If the library building fund created is insufficient at the end of the 10 year period, a city may, pursuant to Article 12, Section 5(b) of the Kansas Constitution and K.S.A. 12-137, adopt an ordinance providing for the levy of a tax to create an additional fund to be used to erect and construct a library building. Cited herein: K.S.A. 12-137, 12-1736, 12-1737, Kan. Const., Art. 12, §5.

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Dear Mr. Eland:

You request our interpretation of K.S.A. 12-1737. Specifically, you indicate that the city of Hoxie has, for the past 10 years, levied an annual tax of two mills to create a library building fund pursuant to the provisions of K.S.A. 12-1737(d). You enclose a copy of the resolution whereby the subject levy was authorized (which copy is attached hereto as Exhibit "A"), and

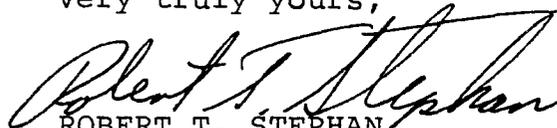
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ask whether the city may, due to an inadequacy in the amount of the fund, adopt another resolution, pursuant to the aforesaid statute, to levy an annual tax of two mills for an additional 10 year period.

K.S.A. 12-1736 authorizes cities to erect, construct or replace a public building or buildings, and K.S.A. 12-1737(d) empowers cities of the third class to levy an annual tax of not more than two mills to create a building fund to be used for the purpose set forth in the resolution authorizing the levy. However, subsection (d) of K.S.A. 12-1737 provides that the tax levy authorized therein "may be made for a period not exceeding 10 years." Accordingly, it is our opinion that since the city of Hoxie has levied the subject tax for a period of 10 years, it has exhausted its power to levy a tax pursuant to the provisions of K.S.A. 12-1737(d).

Although what has been said above is dispositive of the question you have posed, we are compelled to note that the legislature has not classified cities for the purpose of imposing limitations on the levying of the tax authorized by K.S.A. 12-1737, and that both the statute and the enactment of which it is a part are not uniformly applicable to all cities. Therefore, in our judgment the city of Hoxie may, pursuant to Article 12, Section 5(b) of the Kansas Constitution and K.S.A. 12-137, adopt an ordinance providing for the levy of a tax to create an additional fund to be used to erect and construct a library building.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General

RTS:JSS:TRH:jm