



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

October 23, 1989

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 89- 129

Duane F. Johnson  
State Librarian  
Kansas State Library  
Capitol Building  
Topeka, Kansas 66612-1593

Re: Taxation--Aggregate Tax Levy Limitations--Regional System of Cooperating Libraries; Regional Libraries

Synopsis: A regional system of cooperating libraries created under K.S.A. 75-2547 et seq. and a regional library created pursuant to K.S.A. 12-1231 et seq. must follow the applicable procedures set forth in K.S.A. 19-101b in order to exempt such subdivision from the tax lid law, K.S.A. 1988 Supp. 79-5021 et seq. K.S.A. 19-101b requires that a valid protest petition be signed by a number of electors of the subdivision equal to not less than 2% of the number of electors who voted at the last preceding November general election or 100 electors, whichever is greater. Protest petitions should be filed with the county election officer of the county in the subdivision with the highest population of such electors. Cited herein: K.S.A. 12-1231; 12-1232; 19-101b; 25-1117; 25-2007; 25-2104; 25-2110; 25-2110a; 25-2303; 25-2504; 75-2549b; 75-2550; K.S.A. 1988 Supp. 79-5036.

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Dear Mr. Johnson:

You request our opinion regarding the procedure required for a regional system of cooperating libraries or a regional library to exempt itself from the tax lid law, K.S.A. 1988 Supp. 79-5021 et seq. Your specific questions are as follows:

- "1. When a library system board or regional library elects to exempt the district, then publishes as directed by statute, what number of signatures would be required to validate a petition against the exemption action?
- "2. Where should a protest petition be filed?
- "3. Do county boundaries within a library district have any effect on the number of petition signatures necessary or on any other element of the process employed for exemption and protest?
- "4. What levy limitation, if any, prevails for the library district levy following completion of an action to exempt?"

K.S.A. 1988 Supp. 79-5036(c) provides that the governing body of any taxing subdivision, other than a city or county, which is subject to the provisions of K.S.A. 1988 Supp. 79-5021 through 79-5033 may elect to exempt the subdivision from those provisions. The procedures for effectuating the exemption are those prescribed by K.S.A. 19-101b, "insofar as such section may be made applicable." K.S.A. 1988 Supp. 79-5036(c). K.S.A. 19-101b provides in part:

"(c) If within 60 days of the final publication of a charter resolution, a petition signed by a number of electors of a [subdivision] equal to not less than 2% of the number of electors who voted at the last preceding November general election or 100 electors, whichever is the greater, shall be filed in the office of the county election officer demanding that such resolution be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by the electors. . . ."

Some of the regional library systems contain several counties and therefore a relatively large population. See K.S.A. 75-2549b. Regional libraries may also be comprised of two or more counties. K.S.A. 12-1231. Thus, "2% of the number of electors who voted at the last preceding November general election" may prove to be a significant number of people required to carry a protest petition. However, we do not believe this necessarily makes the requirement inapplicable to such taxing subdivisions. K.S.A. 1988 Supp. 79-5036(c) requires taxing subdivisions other than cities or counties to proceed under K.S.A. 19-101b unless those provisions cannot be made to apply. It is therefore our opinion that a petition protesting the exemption of a regional system of cooperating libraries or a regional library from the tax lid law must be signed by not less than 2% of the number of electors in the system or region who voted at the last preceding November general election or 100 electors, whichever is the greater number.

Subsection (c) of K.S.A. 19-101b further provides that any such protest petition is to be filed with the county election officer. The county election officer is "the election commissioner in counties having an election commissioner, and the county clerk in counties which do not have an election commissioner." K.S.A. 25-2504. See also K.S.A. 25-1117; 25-2104; 25-2303. In the case of a regional library system or a regional library comprised of two or more counties, we believe the protest petition should be filed originally with the county election officer of the "home county," or the county in the system or region with the highest population as is done in city elections where the city lies in more than one county, K.S.A. 25-2110, 25-2110a, and school district elections where the school district lies in more than one county, K.S.A. 25-2007.

You have inquired whether county boundaries within a regional system of cooperating libraries or a regional library have any effect on any other element of the exemption process of K.S.A. 1988 Supp. 79-5036(c). K.S.A. 19-101b requires publication of a charter resolution "in the official county newspaper." We would suggest that such publication be made in each county in the system or region. See Attorney General Opinion No. 77-267. K.S.A. 19-101b requires "[t]he board, by resolution, [to] call the election and fix the date." This action should be taken by the system board, K.S.A. 75-2550, or the regional library board, K.S.A. 12-1232. Beyond this, we are aware of no special proceedings required of the system or regional

library. As these entities move through the process, however, questions may arise which may be addressed at that time.

Finally, you question what levy limitation will prevail for the taxing subdivision following a successful action to exempt the subdivision from K.S.A. 1988 Supp. 79-5021 through 79-5033. As expressed in Attorney General Opinion No. 89-130, our opinion is that the limits existing prior to the reappraisal year will be revived upon successful exemption from K.S.A. 1988 Supp. 79-5021 et seq.

In conclusion, a regional system of cooperating libraries created under K.S.A. 75-2547 et seq. and a regional library created pursuant to K.S.A. 12-1231 et seq. must follow the applicable procedures set forth in K.S.A. 19-101b in order to exempt such subdivision from the tax lid law, K.S.A. 1988 Supp. 79-5021 et seq. K.S.A. 19-101b requires that a valid protest petition be signed by a number of the electors of the subdivision equal to not less than 2% of the number of electors who voted at the last preceding November general election or 100 electors, whichever is greater. Protest petitions should be filed with the county election officer of the county in the subdivision with the highest population of electors.

Very truly yours,

  
ROBERT T. STEPHAN  
Attorney General of Kansas

  
Julene L. Miller  
Deputy Attorney General

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