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ATTORNEY GENERAL OPINION NO. 91- 82

The Honorable Kerry Patrick
State Representative, Twenty-Eighth District
10009 Howe Drive
Leawood, Kansas 66206

Re: Constitution of the State of
Kansas--Legislative--Subject and Title of Bills;
1991 Senate Bill No. 122

Synopsis 1991 Senate Bill No. 122 regards the manner in
which a unified school district may acquire certain
materials, goods or wares. The bill does not
embrace two or more dissimilar and discordant
subjects that by no fair intendment can be
considered as having any legitimate connection with
or relation to each other, and thus the bill does
not contain two subjects in violation of article 2,
section 16 of the constitution of the state of
Kansas. Cited herein: K.S.A. 1990 Supp. 72-6760,
as amended by 1991 Senate Bill No. 122; Kan.
Const., Art. 2, sec. 16.

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Dear Representative Patrick:

As representative for the twenty-eighth district, you request
an opinion regarding the constitutionality of 1991 Senate Bill
No. 122 (S.B. 122). Specifically, you ask whether S. B. 122
contains two subjects in violation of section 16 of article 2
of the constitution of the state of Kansas.

Senate Bill No. 122 is titled as:

"An Act concerning school districts; authorizing the levy of a technology education tax subject to certain conditions and limitations; relating to expenditures for which bids are required and providing for certain exemptions; amending K.S.A. 1990 Supp. 72-6760 and repealing the existing section."

Section 1 of the bill confers upon the board of education of a unified school district the authority to levy an annual tax for the purpose of developing, implementing, or enhancing technology education programs and for acquiring equipment necessary for such programs. The procedure for levying the technology education tax and conditions and limitations affecting the tax are set forth in sections 1 through 9. The amendment to K.S.A. 1990 Supp. 72-6760, regarding expenditures for which a unified school district must obtain bids, is contained in section 10 of Senate Bill No. 122.

Article 2, section 16 of the Kansas Constitution states in part:

"No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes."

The purpose of the constitutional provision is the prevention of a matter of legislative merit from being tied to an unworthy matter, the prevention of hodge-podge or log-rolling legislation, the prevention of surreptitious legislation, and the lessening of improper influences which may result from intermixing objects of legislation in the same act which have no relation to each other. State v. Reves, 233 Kan. 972, 977 (1983). Quoting State ex rel Stephan v. Thiessen, 228 Kan. 136 (1990), the Kansas supreme court in State v. Reves, supra, set forth the requirements of article 2, section 16.

"In order to correctly interpret that provision of § 16, article 2 of the constitution, which provides that 'No bill shall contain more than one subject, which shall be clearly expressed in its title,' its object must be taken into consideration; and the provision must not be construed or enforced in any narrow or

technical spirit, but must be construed liberally on the one side, so as to guard against the abuse intended to be prevented by it, and liberally on the other side, so as not to embarrass or obstruct needed legislation.

"Under this provision of the constitution, the title of an act may be as broad and comprehensive as the legislature may choose to make it; or it may be as narrow and restricted as the legislature may choose to make it. It may be so broad and comprehensive as to include innumerable minor subjects, provided all these minor subjects are capable of being so combined and united as to form only one grand and comprehensive subject; or it may be so narrow and restricted as to include only the smallest and minutest subject.

"And while the title to an act may include more than one subject, provided all can be so united and combined as to form only one single, entire, but more extended subject; yet, neither the title to the act nor the act itself can contain more than one subject, unless all the subjects which it contains can be so united and combined as to form only one single subject.

. . . .

"Where a section of an act is assailed as being in contravention of said provisions of § 16, article 2 of the constitution, it is sufficient if it is germane to the single subject expressed in the title and included therein, provided the act itself does not contain more than this single subject.

. . . .

"Where an act contains two separate and independent subjects, having no connection with each other, and the title to the act is broad enough to cover both, held,

that probably, as a general rule, the act is unconstitutional and void." State v. Reves, 233 Kan. at 977.

As stated in Attorney General Opinion No. 83-78, statement of the principles regarding article 2, section 16 is simple; application of the principles to the provisions of a particular bill is extremely difficult.

"Such difficulty is reflected clearly by comparing the following cases of the Supreme Court, in which one bill concerning liquor control was upheld, while another similar law was struck down: State v. Barrett, 27 Kan. 213 (1882) and State v. Topeka Club, 82 Kan. 756, 760 (1910). Moreover, the extent to which the Court will go in upholding a bill which appears to contain more than one subject is indicated by School District v. Atzenweiler, 67 Kan. 609 (1903) and State v. Davis, 116 Kan. 663 (1924). Thus, except in those instances where it clearly appears that two unrelated matters have been combined into a single piece of legislation and 'logrolling' is clearly evident, it is very difficult to predict, with any degree of certainty, whether the Court will sustain or invalidate a particular bill." Attorney General Opinion No. 83-78.

In attempting to determine whether a violation of article 2, section 16 of the Kansas Constitution has occurred, it must be remembered that the constitutionality of a statute is presumed, and all doubts must be resolved in favor of its validity. Kansas Malpractice Victims Coalition v. Bell, 243 Kan. 333, 340 (1988). Before a statute may be struck down, it must clearly appear the statute violates the constitution. Id. Also, the legislature has wide discretion to select bill titles and subject matter. In re Boris v. Korry Testamentary Trust, 785 P.2d 484, 486 (Wash. 1990). All that is required is some "rational unity." Id.

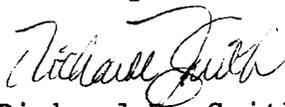
As stated in its title, Senate Bill No. 122 is an act concerning school districts. The provisions of the bill regard the manner in which a unified school district may

acquire certain materials, goods or wares. The bill does not "embrace two or more dissimilar and discordant subjects, that by no fair intendment can be considered as having any legitimate connection with or relation to each other." State v. Reves, 233 Kan. at 978. S. B. No. 122, therefore, does not contain two subjects in violation of article 2, section 16 of the constitution of the state of Kansas.

Very truly yours,



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Richard D. Smith
Assistant Attorney General

RTS:JLM:RDS:jm