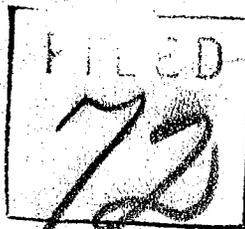


LIBRARIES:

Senate Bill No. 286 requires county courts or city councils to reduce library tax rates but does not make mandatory such reductions in rates which would prevent a library from receiving state aid under Section 181.060.

TAXATION:

RATES OF LEVY:



August 9, 1955

Mr. Paxton P. Price
State Librarian
Missouri State Library
State Office Building
Jefferson City, Missouri

Dear Sir:

This is in response to your opinion request dated July 19, 1955, which reads as follows:

"Would you please give this office your opinion on these questions:

"Facts:

"1. S.B. 286, passed by the 68th General Assembly, requires local tax rates be reduced when assessed valuations are increased a certain percentage.

"2. Public Library statutes provide that library tax rates shall be determined by popular petition and vote.

"3. Section 181.060, RSMo 1949, contains this clause: 'provided, that no grant shall be made to any public library if the rate of tax or the appropriation for said library should be decreased below the rate in force at the time of the enactment of this chapter. . . .'

"4. S.B. 286 contains this clause: 'No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds.'

"Questions:

"1. Is there any other local legal body constituted as 'taxing authority' other

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than the public at large in a political subdivision that can initiate action to reduce library tax rates in compliance with the provisions of S.B. 286?

"2. What methods can the 'taxing authority' use to reduce local library tax rates other than that prescribed in Section 182.010 and Section 182.140, R.S. Mo. 1949, as applied in those cases where the original tax being reduced was fixed under the provisions of those sections?

"3. Would an otherwise eligible library, receiving state aid grants at present under the provisions of Section 182.160, R.S. Mo. 1949, which had its local library tax rate or appropriation reduced under the provisions of S.B. 286, be made ineligible for further grants-in-aid by reason of taking such action?"

The first two questions asked involve the issue: What local legal bodies are authorized to reduce library tax rates under Senate Bill No. 286 and how may they do so when the original tax was set under Sections 182.010 and 182.140, RSMo 1949.

Section 182.010 provides, in part:

"Whenever one hundred taxpaying citizens of any county, outside of the territory of all cities and towns now or hereafter maintaining, at least in part by taxation, a public library, shall in writing petition the county court, asking that a county library district of the county, outside of the territory of all such aforesaid cities and towns, be established and be known as ' county library district, ' and asking that an annual tax be levied for the purpose herein specified, and shall specify in their petition a rate of taxation not to exceed two mills on the dollar; then the county court shall, if it finds said petition was signed by the requisite number of qualified petitioners, enter of record a brief recital

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of such petition, including a description of such proposed county library district, and of its finding aforesaid; and shall order that the propositions of such petition be submitted to the voters of such proposed district at the next annual election to be held the first Tuesday in April; * * * and every voter within such proposed county library district may, in his proper district vote

'For establishing _____ county library district,'

or

'Against establishing _____ county library district,'

and may vote

'For _____ mills tax for a free county library,'

or

'Against _____ mills tax for a free county library; * * *'

County library districts, as such, have no power to tax. "Such taxation privileges as have been conferred upon county library districts are exercised solely upon a vote of the affected inhabitants of such district, and upon being authorized to do so by such vote the actual tax levy is made by the county court wherein such library district is located." (Attorney General Opinion 72, 1954.) See Section 182.020, RSMo 1949.

Section 182.140 states:

"When one hundred taxpaying voters of any incorporated city shall petition the mayor

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and common council asking that an annual tax be levied for the establishment and maintenance of a free public library in such incorporated city, and shall specify in their petition a rate of taxation, not to exceed two mills on the dollar annually, and in cities of over one hundred thousand inhabitants not to exceed two-fifths of one mill annually on all the taxable property in the city, such mayor and common council shall direct the proper officer to give notice in his next legal notice of the annual election, or special election, which may be called for the purpose of voting on such question, that at such election every voter may vote

'For a _____ mill tax for a free public library,'

or

'Against a _____ mill tax for a free public library.'

Specifying in such notice the rate of taxation mentioned, in said petition; * * *

Once authorized, the tax is to be levied and collected in the same way as other general taxes of the city.

Senate Bill No. 286 states:

"Whenever the assessed valuation of real or personal property within the county has been increased by ten per cent or more over the prior year's valuation, either by an order of the state tax commission or by other action, and such increase is made after the rate of levy has been determined and levied by the county court, city council, school board, township board or other bodies legally authorized to make levies, and certified to the county clerk, then such taxing authorities shall immediately revise and lower the rates of levy to the

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extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. * * *" (Emphasis added.)

Senate Bill No. 286 defines "rate of levy" to include "rates which have been or may be authorized by elections for additional or special purposes." Section 182.010 and Section 182.140, supra, provide, in effect, for elections for special purposes, i.e., elections to establish libraries. The rates of levy are thus to be reduced by the proper taxing authority, which, as has been pointed out, is the county court or city council. Either one of these groups must, in answer to your questions, reduce library tax rates in order to carry out Senate Bill No. 286.

In answer to the third question raised, it should be noted that Senate Bill No. 286 does not automatically provide for the reduction of the rates of levy. An express qualification has been inserted. "No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds." This provision prevents Senate Bill No. 286 from conflicting with Section 181.060, allowing state aid, "provided, that no grant shall be made to any public library if the rate of tax or the appropriation for said library should be decreased below the rate in force at the time of the enactment of this chapter * * *."

Because of the way in which Senate Bill No. 286 expressly refers to the substance of Section 181.060, it was not intended to supplant the earlier law. Senate Bill No. 286 must thus be read in the light of Section 181.060, in which case it becomes clear that libraries need not under Senate Bill No. 286 have their levies reduced below the point specified in Section 181.060.

CONCLUSION

It is the opinion of this office that Senate Bill No. 286, 68th General Assembly, requires county courts or city councils to reduce library tax rates but that Senate Bill No. 286 does not make mandatory such reductions in rates which would prevent a library from receiving state aid under Section 181.060, RSMo 1949.

Yours very truly,

JOHN M. DALTON
Attorney General