

LIBRARIES: After merger of a municipal library district
MERGER: with a county library district, in accordance
CITY AND COUNTY: with the provisions of Sec. 182.040, RSMo Cum.
COUNTY LIBRARY TAX: Supp., 1957, it is the responsibility of the
BY WHOM COLLECTED: municipality to collect the library tax at the
rate levied for county library purposes. When
taxes have been collected by proper city officials, proceeds shall
be turned over to county treasurer, who shall credit same to county
library fund as provided by Sec. 182.020, RSMo Cum. Supp. 1957.

June 18, 1959

Honorable Charles E. Hansen
Prosecuting Attorney
Franklin County
Union, Missouri



Dear Mr. Hansen:

This department is in receipt of your request for a legal opinion, which reads as follows:

"At the request of the County Court, the Trustees of the Free County Library District, and the City of Pacific, I would request an opinion on the following: During the year 1958, the County of Franklin by vote of the people established a free county library district. On March 17th, 1959, the City of Pacific, having a city library supported by municipal tax by vote of the Board of Aldermen passed an ordinance requesting that the City of Pacific become ~~part~~ of the county library district. Section 182.040 RSMo., 1955 Supplement reads in part, to-wit: after the establishment of a free county library district the legislative body of any incorporated city which was excluded from the county library district because of the maintenance of a tax supported municipal library . . . may become a part of the free county library district by notifying the County Court that the municipality desires to become a part of the free county library district at the beginning of the next succeeding full fiscal year; and thereafter the municipality shall be liable for taxes for free county purposes.

"One of the questions to be resolved is whether the municipality or the county is to collect the taxes, Section 182.040 in part saying: 'and thereafter the municipality shall be liable for the taxes levied for free county library purposes at the same rate as is levied for the free county library district in such county', Section 182.030 regarding the inclusion in the district by vote of the people within

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the city states in part: 'at the beginning of the next fiscal year and the property within the municipal library district shall be liable to taxes levied for free county library purposes'. My view on this matter is that the municipality must collect taxes and pay the same over to the county library district."

The inquiry expressed in your letter is whether a municipality, after its municipal library district becomes a part of a county library district, shall collect the library taxes for that portion of the county library district comprising the municipality, or whether the county shall collect such library taxes in the municipality.

All sections referred to herein are to RSMo Gen. Supp. 1957, unless otherwise specified.

Section 182.020, provides how county library taxes are levied and collected. Said section reads as follows:

"1. If, from returns of the election, the majority of all the votes cast on the propositions at the election shall be 'For establishing county library district', and for the tax for a free county library, the county court shall enter of record a brief recital of the returns and that there has been established '. county library district', and thereafter such '. county library district', shall be considered established; and the tax specified in the notice, subject to the provisions of this section, shall be levied and collected, from year to year.

"2. The proceeds of the levy, together with all interest accruing on same, with library fines, collections, bequests and donations in money shall be deposited in the treasury of the county and be known as the 'county library fund', and be kept separate and apart from other moneys of the county, and disbursed by the county treasurer only upon the proper authenticated warrants of the county library board.

"3. The tax may be reconsidered whenever the qualified electors of any county library district shall so determine by a majority vote given at any annual election held therein on such propositions after petition, order of the court, and notice of the election and of the purpose thereof, first having been

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made, filed and given, as in the case of establishing such county library district. At least five years must elapse after the county library district has been established and a tax therefor has been levied before an election may be held on a proposition to reconsider the tax.

"4. As used in sections 182.010 to 182.120, the words 'county court' shall be construed to mean the proper court or official in any county operating under a special charter."

Section 182.140 provides how a city library district is organized and also how a tax for the establishment and maintenance of a municipality are levied and collected. Said section reads in part as follows:

"1. Whenever qualified electors equal to five per cent of the total vote cast for governor at the last election in any city now or hereafter containing more than five thousand inhabitants petition the mayor, common council or other proper governing body in writing asking that an annual tax be levied for the establishment and maintenance of a free public library in the city, and specify in their petition a rate of taxation, not to exceed two mills on the dollar annually, and in cities of over six hundred thousand inhabitants not to exceed one mill on the dollar annually, on all the taxable property in the city, the governing body 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 the question. The officer shall furnish ballots, poll books and other necessary election items, and the expense of the election shall be paid out of the city treasury in the same manner with like effect and by the same officers as in the case of other city elections. The order of the governing body and the notice shall specify the name of the city and the rate of taxation mentioned in the petition, and the officer shall make and file in his office, return of service of the notice. Every voter within the city may vote

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

or

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

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"If, from returns of the election, the majority of all the votes cast on the proposition at the election is 'for a . . . mill tax for a free public library,' the governing body shall enter of record a brief recital of the returns and that there has been established a public library and thereafter the free public library shall be established, and shall be a body corporate, and known as such.

"2. The tax specified in the notice, subject to the provisions of this section, shall be levied and collected, from year to year, in like manner with other general taxes of the city. The proceeds of the levy, together with all interest accruing on same, with library fines, collections, bequests and donations in money shall be deposited in the city treasury and shall be known as the 'city library fund', and shall be kept separate and apart from other moneys of the city, and disbursed by the proper city finance officer only upon proper authenticated warrants of the city library board of trustees.

"3. In case the proposed mill tax is sought as an increased tax for the maintenance of a free public library already established over a lesser tax rate theretofore voted and adopted, then such fact shall be recited in the petition and the notice of the election, and the ballot shall submit to the voters the proposition

'For a . . . mill tax increase over the present . . . mill tax for the free public library,'

or

'Against a . . . mill tax increase over the present . . . mill tax for the free public library.'

"If a majority of all the votes cast on the proposition at the election is for the tax submitted, the tax specified in the notice shall be levied and collected in like manner with other general taxes of the city, and shall be known as and become a part of the city library fund and be administered as provided in section 182.200."

The last above-quoted section authorizes the levy and collection of a tax annually, from year to year, in like manner as general taxes, for establishing and maintaining a free public library in the city. The proceeds of the levy, together with all accruing

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interest, library fines, bequests and donations in money are required to be deposited in the city treasury to the credit of the city library fund, which fund shall be kept separate and apart from other funds, and can be disbursed by the proper finance officer only upon the properly authenticated vouchers of the city library board of trustees.

A municipal library district may become a part of a county library district by following the procedure outlined in Section 182.030, or Section 182.040.

Section 182.030 reads as follows:

"When qualified electors equal to five per cent of the total vote cast for governor at the last election in an existing municipal library district within the geographical boundaries of a proposed or existing county library district shall petition in writing the county court to be included in the proposed or existing county library district, subject to the official approval of the existing county library board, the qualified voters of the municipal library district shall be permitted to vote on the proposition for establishing or joining the county library district, and on the proposition for a tax levy for establishing and maintaining a free county library. If the proposition carries by a majority vote, the municipal library district shall become a part of the county library district at the beginning of the next fiscal year and the property within the municipal library district shall be liable to taxes levied for free county library purposes. If a majority of voters in the existing municipal library district oppose the county library district, the existing municipal library district shall continue."

Section 182.040 reads as follows:

"After the establishment of a free county library district the legislative body of any incorporated city, town or village in the county which was excluded from the county library district because of the maintenance of a tax supported municipal library established and maintained pursuant to other provisions of this chapter, after approval of the proposed change by the trustees of the free county library district, may become a part of the free county library district by notifying the county

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court that the municipality desires to become a part of the free county library district at the beginning of the next succeeding full fiscal year; and thereafter the municipality shall be liable for taxes levied for free county library purposes at the same rate as is levied for the free county library district in such county."

The principal difference between these two sections is that the former permits a merger of a city and a county library district, when subject to the official approval of the existing county library board, the qualified electors equal to five per cent of the total vote cast for governor at the last election in an existing municipal library district, petition the county court for an election to vote upon the proposition as to whether or not the municipal library district shall be included in the existing or proposed county library district of the same county in which the municipal district is located, and a majority of votes cast at the election are in favor of the proposition, the municipal library district shall become a part of the county library district at the beginning of the next fiscal year. The property in the municipal district shall then be liable to county library tax.

Under provisions of the latter section, the proposed merger of the municipal and county library districts is not submitted to a vote of the electors of the municipal district. In such instances, when a petition with the requisite number of signers is presented to the city council, and the prior approval of the merger has been obtained from the county library board, the city council then notifies the county court of the desire of the municipal library district to merge, and become a part of the county library district, and the former district will become a part of the latter district at the beginning of the next succeeding full fiscal year. Thereafter, the municipal district shall be liable for library taxes levied at the same rate as in the county district.

Upon closer scrutiny, it appears that the above-mentioned statutes differ in still another particular, to which is attached greater significance. In view of the fact that above sections were passed by the Legislature as a part of the same act, it is believed each section was not only intended to provide a different procedure for merging of county and municipal districts, but that it was also the legislative intent to provide a different procedure in each section for collection of library taxes, after the merger has taken place and as shown by the provisions of each section.

In Section 182,030 is the statement "and the property within the municipal library district shall be liable to taxes levied for free county library purposes". We construe this statement to mean that after the merger of a city and county library district, in

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accordance with Section 182.030, the county library tax shall continue to be levied, collected, and paid over to the county treasurer, as authorized by Section 182.020, for county library districts, as before the merger, by the proper county officials, except that after the merger such county officials shall also collect the county library tax in that territory of the county formerly comprising the municipal library district.

In Section 182.040 is the statement "and thereafter the municipality shall be liable for taxes levied for free county library purposes at the same rate as is levied for the free county library district in such county". We construe the foregoing statement to mean that after the merger of a city and a county library district has been effected under provisions of Section 182.040, it is the responsibility of the municipality to continue the collection of a library tax authorized by Section 182.140. However, the rate of taxation shall be the same as the county library tax, and the tax shall be imposed upon all property located in the municipality. When the taxes have been collected by the proper city officials, they shall turn over the proceeds to the county treasurer who shall credit them to the county library fund, as provided by Section 182.020, supra.

From the facts disclosed in the opinion request, it appears that the procedure authorized by Section 182.040 has been attempted, and for our present purposes it will be assumed that such procedural requirements have been met and the municipal library district of the City of Pacific has been legally merged with and has become a part of the county library district of Franklin County.

In view of these circumstances, it is the responsibility of the City of Pacific to collect the library tax at the rate levied for county library purposes. When the officials of the City of Pacific have collected the library tax, they shall turn the proceeds over to the County Treasurer of Franklin County, who shall credit the proceeds to the library fund, as provided by Section 182.020, supra.

CONCLUSION

Therefore, it is the opinion of this department that after the merger of a municipal library district with a county library district, in accordance with the provisions of Section 182.040, RSMo. Cum. Supp. 1957, it is the responsibility of the municipality

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to collect the library tax at the rate levied for county library purposes. When the taxes have been collected by the proper city officials, they shall turn over the proceeds to the county treasurer, who shall credit same to the county library fund, as provided by Section 182.020, RSMo Cum. Supp. 1957.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul N. Chitwood.

Very truly yours,

JOHN M. DALTON
Attorney General

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