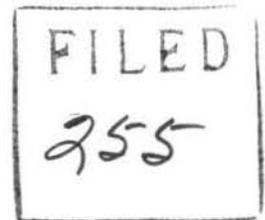


Taxation (cities, towns and villages): Assessments: (1) When the provisions of Section 137.073, RSMo 1969, become applicable because of an increase in the assessed valuation of property in a county, the lowering of the rate of a city library tax levy shall be only to the extent necessary to produce substantially the same amount of taxes for the library as previously estimated to be produced by the original levy, and the lowering of the rate of levy shall be subject to the limitation that the levy for the library shall not be reduced below a point that would entitle it to participate in state funds. (2) Revising the rates of levy so that the rate of levy applicable to the library will produce substantially less than the amount of taxes previously estimated to be produced by the original levy and so that rates of levy for other city purposes will produce substantially more taxes than had been estimated to be produced by the original levy is not in conformity with Section 137.073, RSMo 1969, even though the total city taxes produced by the revised rates of levy may equal the total taxes previously estimated to be produced by the original levy.

July 9, 1971

OPINION NO. 255

Honorable Robert Devoy
State Representative
Ninety-Second District
111 East Brooks Street
Brookfield, Missouri 64628



Dear Representative Devoy:

This is in response to your request for an opinion construing Section 137.073, RSMo 1969, as to:

" . . . whether a city of the third class has the authority to decrease the rate of levy of the city library to a rate that will produce substantially less revenue than was produced in the year prior to the increase in assessed valuation and at the same time leave the other rates of levy of the city at a point where they will produce substantially more revenue than was received in the year prior to the increase in assessed valuation."

Section 137.073, RSMo 1969, provides:

"Whenever the assessed valuation of real or personal property within the county has been increased by ten percent 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

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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 extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy. Where the taxing authority is a school district it shall only be required hereby to revise and lower the rates of levy to the extent necessary to produce from all taxable property substantially the same amount of taxes as previously estimated to be produced by the original levy, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation. The lower rate of levy shall then be recertified to the county clerk and extended upon the tax books for the current year. The term 'rate of levy' as used herein shall include not only those rates the taxing authorities shall be authorized to levy without a vote, but also those rates which have been or may be authorized by elections for additional or special purposes. No levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds." (Emphasis added.)

We assume that the tax rate for general city purposes was set by the city council before it was determined that the provisions of Section 137.073 were applicable to such city. See Opinion No. 49, rendered to J. Marcus Kirtley, March 8, 1956, a copy of which is enclosed.

The law requires that "taxing authorities shall immediately revise and lower the rates of levy to the 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.) Use of the word "authorities" indicates an application of the requirement to every taxing authority; and, use of the word "rates" in the term "rates of levy" indicates application of the requirement to every rate of levy.

These indications are strengthened by the provision of the law that "where the taxing authority is a school district it shall only be required hereby to 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, plus such additional amounts as may be necessary approximately to offset said district's reduction in the apportionment of state school moneys due to its increased valuation." This provision was included in the law because of the additional factor of change in apportionment of state school moneys due to changed valuation to make certain that, after the lowering of its rate of tax levy, a school district will receive in the combination of taxes and state school money substantially the same amount of money as previously estimated would be received from the combination of the original tax levy and state school money.

These indications are further strengthened by the provision that "no levy for public schools or libraries shall be reduced below a point that would entitle them to participate in state funds." This also shows the intention of the legislature that the requirement for lowering the rates of levy will not result in loss of state funds to public schools and libraries. See Opinion No. 72 -1955, a copy of which we attach.

The legislature puts libraries in the same category as public schools in prohibiting the reduction in levy below a point that would entitle them to participate in state funds. The general requirement of lowering rates of levy to the extent necessary to produce substantially the same amount of taxes as previously estimated to be produced by the original levy, has been modified with respect to public schools, only as necessary to avoid loss from reduction in apportionment of state school moneys due to changed valuation. This general requirement appears to set the pattern for other rates of levy and applies to libraries, provided that such reduction shall not be below a point that would entitle the libraries to participate in state funds.

CONCLUSION

It is the opinion of this office that:

(1) When the provisions of Section 137.073, RSMo 1969, become applicable because of an increase in the assessed valuation of property in a county, the lowering of the rate of a city library tax levy shall be only to the extent necessary to produce substantially the same amount of taxes for the library as previously estimated to be produced by the original levy, and the lowering of the rate of levy shall be subject to the limitation that the levy for the library shall not be reduced below a point that would entitle it to participate in state funds.

(2) Revising the rates of levy so that the rate of levy applicable to the library will produce substantially less than the amount of taxes previously estimated to be produced by the original levy and

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so that rates of levy for other city purposes will produce substantially more taxes than had been estimated to be produced by the original levy is not in conformity with Section 137.073, RSMo 1969, even though the total city taxes produced by the revised rates of levy may equal the total taxes previously estimated to be produced by the original levy.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Carroll J. McBride.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Enclosure:

Opinion No. 49, Kirtley, 3-8-56
Opinion No. 72, Price, 8-9-55