



March 15, 1948

Miss Kathryn P. Mier
State Librarian
State Office Building
Jefferson City, Missouri

Dear Miss Mier:

We have your letter of recent date requesting an opinion from this department, which reads as follows:

"The Ray County Library Board, Richmond, submitted to me a copy of a petition filed with the Ray County Court, requesting an election to determine whether a Ray County Library District and a one-mill tax shall be retained in Ray County.

"A copy of the petition is enclosed. The Revised Statutes of Missouri, 1939, Chapter 110, Article 6, Section 14767, provides for the establishment of a County Library District and provides for a method of securing taxation for its operation and maintenance. This section also provides for the discontinuance of the tax. It is not clear to me that the section provides for the discontinuance of the County Library District.

"The petition submitted (copy attached) seems to embody two requests: (1) the abolition of the district, and (2) the abolition of the tax.

"In your opinion can a library district be abolished under the statutes of Missouri (Revised Statutes, 1939, Chapter 110, Section 14767)?

"Is the request to the Ray County Court worded in such language as to provide for an election on the questions submitted in the petition?"

The question presented is whether a county library district which has been established in accordance with Section 14767, R.S. Mo. 1939, can be dissolved under the provisions of that statute. Section 14767 provides:

"Whenever one hundred (100) 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 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 that the clerk of the county court shall cause to be published the proposition or propositions of such petition; and said county clerk shall cause said proposition or propositions to be published in like manner, as near as may be, with the publication of 'the nominations to office,' as provided in section 11542, R.S. 1939. Such order of court and such notice shall specify the name of the county and the rate of taxation mentioned in said petition, and such county clerk shall make

and file in his office, return of service of such notice; 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:'

Provided, that in case the boundary limits of any city or town hereinabove mentioned are not the same with the school district of such city or town, and such school district embraces territory outside the boundary limits of such city or town, then all voters, otherwise qualified and residing in such school district and outside the limits of such city or town, shall be eligible to vote on any proposition or matter of such library district, submitted to the voters at such election, and may cast a vote thereon, at the nearest and most convenient district schoolhouse within said county library district. And if, from returns of such election, which shall be certified to the county court, the majority of all the votes cast on such propositions at such 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 such returns and that there has been established

'--- county library district,'

and thereafter such

'--- county library district'

shall be considered and held to be established, shall be a body corporate, and known as such; and the tax specified in such notice shall, subject to provisions herein below of this section, be levied and collected, from year to year, in like manner with other taxes in the rural school districts of said county. The proceeds of such 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 such county, and disbursed by the county treasurer only upon the proper authenticated vouchers of the county library board hereinafter mentioned: Provided, that such taxes shall cease, in case the regular voters of any such district shall so determine by a majority vote at any annual election held therein, after petition, order of court, and notice of such election and of the purpose thereof, first having been made, filed and given, as in the case of establishing such county library district."

It is provided that whenever one hundred taxpaying citizens of the county, outside the cities and towns now maintaining a public library, petition the county court, asking that a county library district be established and an annual tax be levied for such purpose, said propositions shall be submitted to the voters of such proposed district. If the majority of the votes cast are in favor of such propositions, a library district shall be considered established, which shall be a body corporate. The tax specified shall be levied and collected in the same manner

as other taxes in rural school districts in the county, subject to the further provisions of Section 14767. It is further provided that such taxes shall cease if the voters of the district so determine by a majority vote at an election held for that purpose and in the same manner as the election to establish such district was held.

In construing Section 14767 we must, of course, look to the intent of the Legislature. *Metropolitan Life Ins. Co. v. Scheuffler*, Mo. Sup., 180 S.W. (2d) 742. The lawmakers intent is to be ascertained from the language used; it must be given its plain and rational meaning in order to promote its manifest purpose. *Donnelly Garment Co. v. Keitel*, 354 Mo. 1138, 193 S.W. (2d) 577; *Haynes v. Unemployment Compensation Comm.*, 353 Mo. 540, 183 S.W. (2d) 77; *Wallace v. Woods*, 340 Mo. 452, 102 S.W. (2d) 91. It is further provided in Section 14767 that "such taxes shall cease, in case the regular voters of any such district shall so determine by a majority vote at any annual election held therein, after petition, order of court, and notice of such election and of the purpose thereof, first having been made, filed and given, as in the case of establishing such county library district." (Underscoring ours.)

It is clearly indicated by the provision that the tax voted shall be levied and collected in the same manner as other taxes in rural school districts in the county, subject to the further provisions of the statute that the above proviso relates only to the abolition of the library tax. In no sense can said proviso mean that an election to discontinue the county library tax includes the proposition to dissolve the county library district. It is obvious that the terms of the statute are plain and unambiguous. We may not search for a meaning beyond the statute itself. *State v. Phillips Petroleum Co.*, 349 Mo. 360, 160 S.W. (2d) 764. Where the language of a statute is plain and unambiguous it may not be construed but must be given effect as written. *St. Louis Amusement Co. v. St. Louis County*, 347 Mo. 456, 147 S.W. (2d) 667; *Cummins v. Kansas City Public Service Co.*, 334 Mo. 672, 66 S.W. (2d) 920; *State v. Thatcher*, 338 Mo. 622, 92 S.W. (2d) 640.

Even though in an election for that purpose under the provisions of Section 14767 the county library tax is discontinued, this does not automatically dissolve the county library district for the reason that the district is, in the first instance, a creature of the law and after once having been created in compliance with the law and once having procured

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its corporate life from the state, this corporate life cannot be taken away unless such is done in compliance with the law. There is no provision contained in Section 14767 which authorizes the dissolution of a county library district.

It necessarily follows then that the petition attached to the letter of request should be amended in accordance with the conclusion reached herein.

Conclusion.

Therefore, it is the opinion of this department that a county library district established in accordance with Section 14767, R.S. No. 1939, cannot be dissolved under the provisions of that section.

Respectfully submitted,

DAVID DONNELLY
Assistant Attorney General

APPROVED:

J. E. TAYLOR *T.B.*
Attorney General

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