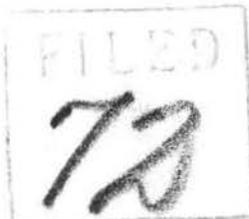


STATE LIBRARIES: It is the opinion of this department that State aid  
STATE AID! cannot legally be given to any public library if the  
rate of tax is decreased below the rate in force on  
December 31st, 1946. It is the further opinion of  
this department that State aid may be granted to any  
public library if the rate of tax is not below the rate in force on  
December 31st, 1946, and if the library has at least a one mill tax  
voted in accordance with sections 182.010 through 182.460, RSMo 1949,  
or if the tax income for such library yields one dollar or more per  
capita for the previous year on the basis of population as set forth  
in the most recent Federal census.

February 13, 1958

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



Dear Sir:

Your recent request for an official opinion reads:

"This office would appreciate having an opinion  
from you on the following question:

'Can the state librarian authorize a  
grant in aid under provisions of subsec-  
tion 2 of section 181.060, Cum. Supp.  
1957, to a city library, if the rate of  
tax which has been fixed by popular vote  
in such city is below the rate in force  
on December 31, 1946?

'When the tax rate for a city library  
is not below the rate in force on December  
31, 1946, but the rate levied and collec-  
ted by such city is less than the library  
tax rate voted by the people, can the  
state librarian authorize a grant under  
provisions of subsection 2 of section  
181.060, Cum. Supp. 1957, if at least a  
one mill tax which was voted in accordance  
with Sections 182.010 through 182.460, RSMo.  
was levied, or if the taxes collected for  
such library yield an income of one dollar  
or more per capita according to the popula-  
tion of the latest Federal census.'

Section 181.060, RSMo Cum. Supp. 1957, reads in part:

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"State aid for public libraries--appropriation--allocation.--1. The general assembly may appropriate moneys for state aid to public libraries, which moneys shall be administered by the state librarian, under rules and regulations of the state library commission.

"2. At least fifty per cent of the moneys appropriated for state aid to public libraries shall be apportioned to all public libraries established and maintained under the provisions of the library laws or other laws of the state relating to libraries. The allocation of the moneys shall be based on an equal per capita rate for the population of each city, village, town, township, school district, county, or regional library district in which any library is or may be established, in proportion to the population according to the latest federal census of the cities, villages, towns, townships, school districts, county or regional library districts maintaining tax supported public libraries. No grant shall be made to any public library if the rate of tax or the appropriation for the library should be decreased below the rate in force on December 31, 1946. Grants shall be made to any public library, according to two alternate standards:

"(1) To any public library which has at least a one-mill tax voted in accordance with sections 182.010 through 182.460 RSMo; or

"(2) To any public library for which the tax income yields one dollar or more per capita for the previous year according to the population of the latest federal census."

It would appear to us to be clear that the answer to your first question is definitely answered in the negative by that portion of the portion of Section 181.060, supra, which reads:

" \* \* \* \* No grant shall be made to any public library if the rate of tax or the appropriation for the library should be decreased below the rate in force on December 31, 1946. \* \* \* \* "

In an opinion rendered on April 22, 1947, to Miss Kathryn P. Mier, State Librarian, a copy of which opinion is enclosed, we held

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that the proper authorities shall not decrease the levy or appropriation for the library fund below the rate or the appropriation in force at the time of the enactment of Senate Bill No. 369 with an emergency clause thereto, which was approved July 10, 1946, without losing state aid. Subsequently, this section was amended as above and the date was extended to December 31, 1946. However, the principle of law involved is the same and we submit the Mier opinion as being, on this point, authority for our position in the instant situation.

We believe that the answer to your second question is in the affirmative. The situation which you set forth there is one in which the library has satisfied the prerequisite to state aid discussed above, which is to say that the tax rate is not below the rate in force on December 31st, 1946.

You do state that the rate levied and collected is "less than the library tax rate voted by the people." We do not believe that this fact disqualifies the library from receiving state aid because there is nothing in the library law as set forth in Chapter 181 or more specifically in Section 181.060, supra, which makes such a matter prerequisite to receiving state aid. We again refer to the Mier opinion which on this point holds that "even though the authorities are not levying and collecting the full amount of the levy adopted at the election creating the public library, that that would not prohibit such library from receiving the aid under said act."

In the situation which you present in your second question, the library has met either one or the other of the requirements set forth in sub-subsection 2 of Section 181.060, supra, to wit, a one mill tax has been voted or where the tax income yields one dollar or more per capita. And the section clearly says that "grants shall be made to any public library \* \* \* \*," which meets either of these two alternate standards.

#### CONCLUSION

It is the opinion of this department that state aid cannot legally be given to any public library if the rate of tax where the appropriation for the library is decreased below the rate in force on December 31st, 1946.

It is the further opinion of this department that state aid may be granted to any public library if the rate of tax is not below the rate in force on December 31st, 1946, and if the library has at least a one mill tax voted in accordance with Sections 182.010

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through 182.460, RSMo 1949, or if the tax income for such library yields one dollar or more per capita for the previous year on the basis of population as set forth in the most recent federal census.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

John M. Dalton  
Attorney General

HPW:om

Enclosure