

MUNICIPAL LIBRARY ELECTIONS:
ELECTION EXPENSES:
COUNTY COURT:

The County of Cape Girardeau is responsible and liable for the expenses of a municipal library district election authorized by Section 182.030, RSMo Cum. Supp. 1957.

March 20, 1959



Honorable Richard E. Snider
Prosecuting Attorney
Cape Girardeau County
Cape Girardeau, Missouri

Dear Mr. Snider:

This is in response to your letter of March 6, 1959, in which you inform us that the county court of Cape Girardeau County has been petitioned, in accordance with Section 182.030, RSMo Cum. Supp. 1957, to conduct an election for the joining of the city municipal library district with the county library district. We quote that letter in part:

"The City of Jackson, Missouri, has petitioned the county court to hold an election for the joining of the City Municipal Library District with the County Library District. As you can see from my letter to Mr. Crites, I have advised him that the county should not be liable for the expense of such an election.

"I would appreciate your opinion on this matter as soon as possible as we plan to hold the election the first part of April."

Section 182.030, RSMo Cum. Supp. 1957, states:

"Whenever 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

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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."

You will observe from Section 182.030 that the petition submitted by the qualified electors of the existing municipal library district to the county court is for the purpose of seeking the court's permission to be included in the proposed or existing county library district. We observe that such permission would apparently be subject to the official approval of the existing county library board. It is our belief that it is of some significance that these voters are required to petition the county court.

The Supreme Court of Missouri, Division 1, in the case of King v. Maries County, 249 S.W. 418, March 5, 1923, states on page 420 as follows:

"[1,2] It has been held uniformly that county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute. * * * * This is qualified by the rule that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted. * * *"

Although Section 182.030 is something less than perfectly

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clear, it is our opinion that this section authorizes the county court to permit and provide for and conduct this election. Even though the provision for liability for the expense of such a municipal library district election is not expressly provided for in this section, the rule in the King case should be applicable. With the express authorization of the conduct of this election by the county court there is necessarily implied the power and authority to pay for such conduct of that election with the appropriate funds subject to expenditure by the county court.

Section 182.030 does not authorize any action by a city, nor does it authorize action by a group which has available funds for expenditures on such occurrences. It would be difficult to construe the intention of the legislature in enacting this section in any other manner than to say that when the county court approves such an election, and authorizes it, the county would be liable for the expenses thereof.

CONCLUSION

It is the opinion of this office that the county of Cape Girardeau is responsible and liable for the expenses of a municipal library district election authorized by Section 182.030, RSMo Cum. Supp. 1957.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James B. Slusher.

Yours very truly,

JOHN M. DALTON
Attorney General

JBS:mc