

PUBLIC LIBRARIES:

CONSTITUTIONAL CHARTER CITIES:

ELIGIBILITY FOR STATE AID:

Constitutional charter cities levying and collecting library tax of one mill on dollar of assessed valuation imposed by city ordinance under authority of Secs. 137.020 and 94.400, RSMo 1959, sufficiently meets requirements of Sec. 181.060, RSMo 1959, as to amount, and if tax was duly assessed and levied for the year preceding that in which application for state aid grant was made the library of said city is eligible for a state aid grant under provisions of said Sec. 181.060

October 26, 1961

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



Dear Mr. Price:

This is to acknowledge receipt of your recent request for a legal opinion, which reads as follows:

"Is a constitutional charter city levying and collecting a library tax by city ordinance under the authority of Section 137.030 RSMo eligible to receive State Aid for Public Libraries provided in Section 181.060 which specifies the taxing authority to be used for eligibility provided the total library tax collected equals the required qualifying amount?"

The above inquiry is in general terms and makes no reference to any particular constitutional charter city, and of course requires an answer which shall be applicable to all constitutional charter cities of the same class.

In a conversation with you regarding said inquiry, we understand it was occasioned by occurrences in University City, Missouri, and also as to whether or not the library of the city is entitled to a grant of state aid under provisions of Section 181.060, RSMo 1959.

Correspondence attached to the opinion request indicates University City is a constitutional charter city and that its current library tax rate was not authorized by a vote of the citizens in accordance with the provisions of Section 182.140 RSMo 1959. More specifically, it appears the Council of said city duly enacted an ordinance, Bill No. 5822, on June 27, 1960, fixing the library tax rate for the city at one mill on the dollar, for the period, 1960-61. It is claimed in said correspondence that the tax rate is in an amount sufficient to entitle the library to a state grant of aid, under provisions of Section 181.060, RSMo 1959, for the fiscal year, 1961-62.

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Section 181.060, RSMo 1959, provides for state grants of aid to public libraries under certain conditions, and reads in part as follows:

"\* \* \* No grant shall be made to any public library if the rate of tax levied or the appropriation for the library should be decreased below the rate in force on December 31, 1946, or on the date of its establishment. Grants shall be made to any public library if a library tax of at least one mill has been voted in accordance with Sections 182.010 to 182.460, RSMo, or as authorized in Section 137.030, RSMo, and is duly assessed and levied for the year preceding that in which the grant is made, or if the appropriation for the public library in any city of the first class yields one dollar or more per capita for the previous year according to the population of the latest federal census\* \* \*."

That part of the above quoted section referring to Sections 182.010 to 182.460, RSMo 1959, is in regard to county and city libraries. Section 182.140 is included therein, and contains the statutory procedure for the establishment of a public library in any city and for the authorization of a mill tax of not to exceed two mills on the dollar annually for the support of the library, when the proposition has been submitted to, and has been adopted by a majority vote on such proposition.

The present inquiry, and the facts involved in same are not directly concerned with a library tax authorized by a vote of the people of the city. We only refer to said Section 182.140 in passing for the reason we wish to show that a city library tax may be authorized by a vote of the people of a constitutional charter city as set out by Section 182.140, or by a city ordinance in accordance with provisions of Section 94.400, to which section later reference will be made. Furthermore, Section 182.140 must be kept in mind as included in the group of statutes referred to in Section 181.060, supra, on requirements for eligibility of a library for state aid.

Section 137.030, RSMo 1959, is also referred to in Section 181.060, supra, and Section 137.030, RSMo 1959, and reads as follows:

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"Any county, or other political subdivision otherwise authorized by law to support and conduct a library may levy for library purposes in addition to the limits prescribed in section 11, article X of the Constitution a rate of taxation on all property subject to its taxing powers in an amount as now or hereafter prescribed by law; provided, that political subdivisions now having or hereafter having a population of not less than three hundred thousand inhabitants nor more than six hundred thousand inhabitants according to the last federal decennial census are authorized to levy for library purposes a rate which shall not exceed ten cents on the hundred dollars assessed valuation annually, on all taxable property in such subdivision." (Under-scoring ours).

Section 11(b), Article X, Constitution of Missouri, prescribes the limitation of local tax rates. For municipalities the limitation shall not exceed one dollar on the one hundred dollars assessed valuation.

Section 11(c), Article X, of the Constitution provides that local taxes may be increased above the limitation previously mentioned, for certain purposes among which is that for library purposes. That part of the section on library and other taxes, reads as follows:

" \* \* \* provided that the rates herein fixed, and the amounts by which they may be increased, may be further limited by law; and provided further, that any county or other political subdivision, when authorized by law and within the limits fixed by law, may levy a rate of taxation on all property subject to its taxing powers in excess of the rates herein limited for library, hospital, public health, recreation grounds and museum purposes."

Section 15 of Article X, provides that the term "other political subdivision" as used in the Article (i.e. Article X of the Constitution) shall be construed to include townships, cities, towns, villages, school, road, drainage, sewer and levy districts and any other public subdivision, corporation, or quasi-corporation having taxing powers.

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Cities, as "other political subdivisions," within the meaning of Section 15, Article X, would be authorized by Section 11(c) to increase their tax rate for library purposes, above the limitations provided by Section 11(b), Article X, within the limits which may be provided by statute.

Section 137.030, supra, particularly that portion of same we have underscored, also authorizes counties or any other political subdivisions, authorized by law to levy a library tax, to increase same above the constitutional tax limitation, in this case as it applies to cities, "in an amount as now or hereafter prescribed by law." Said section nor any of the above mentioned constitutional provisions prescribe that amount of tax, but refers to any applicable statutory provisions.

We have previously called attention to Section 182.140 which prescribes a limitation of two mills library tax which may be voted by cities, and such limitation is in excess of the constitutional limitation of taxes for general purposes, of one dollar on the one hundred dollars assessed valuation.

Section 94.400, RSMo 1959, provides that constitutional charter cities of a certain population may increase their tax rate above the constitutional limitation for general purposes (as to municipalities) for certain special purposes, including libraries. Said section reads in part as follows:

"1. All cities in this state which now have or may hereafter contain a population of not less than ten thousand and less than three hundred thousand inhabitants according to the last preceding federal decennial census, framing and adopting a charter for its own government under the provisions of section 19, article VI of the constitution of this state, known as 'constitutional charter cities', may by city ordinance levy and impose annually for municipal purposes upon all subjects and objects of taxation within their corporate limits a tax which shall not exceed the maximum rate of one dollar on the one hundred dollars assessed valuation, and may by city ordinance levy and impose annually an additional tax at a rate in excess of said one dollar on the one hundred dollars assessed valuation, but not to exceed forty cents on the one hundred dollars assessed valuation for any one or more of the following purposes, to wit: Library, hospital, public

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health, recreation grounds, and museum purposes; provided, however, that the rate of tax levy of one dollar on the one hundred dollars assessed valuation for general municipal purposes may, in addition to the aforesaid rate and purposes of increase which may be voted by city ordinance, be further increased for general municipal purposes for a period not to exceed four years at any one time when such rate and purpose of increase are submitted to a vote of the qualified electors within such cities and two-thirds of the qualified electors voting thereon shall vote therefor, but such increase so voted shall be limited to a maximum rate of taxation not to exceed thirty cents on the one hundred dollars assessed valuation."

While Section 181.060, supra, authorizes state aid when a library tax of not less than one mill shall have been voted in accordance with Sections 182.010 to 182.460, said section also authorizes state aid when a tax is authorized as provided in Section 137.030, RSMo. The tax imposed by city ordinance under Section 94.400 is one authorized in Section 137.030, RSMo, since it is a tax prescribed by law. Compliance with either one or the other methods of authorization of the tax will be sufficient, for obviously the legislative intent was not that compliance with either method of imposing the library tax to the exclusion of the other was intended.

We shall not repeat any of our previous discussion on Section 137.030, supra, except to say that said section does not prescribe the amount or method of authorization the political subdivision shall use in levying a library tax, the effect of its provisions are that the method of authorization and amount of tax shall be in accordance with the applicable law. We have seen that while Section 182.140 permits any city, including a constitutional charter city, to vote a tax for support of its library, Section 94.400 also permits a constitutional charter city, having a population with certain limits, to authorize a library tax of not more than forty cents on the one hundred dollars assessed valuation by city ordinance.

If a constitutional charter city, having a population within the limitation specified in Section 94.400, authorizes a library tax of one mill by city ordinance, which tax has been assessed and levied for the year previous to that in which an application for a state aid grant is made for its library, then such library is eligible to receive a state aid grant in accordance with

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Section 181.060, supra. It is believed these principles are fully applicable to the facts involved in the opinion request, and we shall attempt to apply them as such.

The federal decennial census report for 1960 shows the population of University City to be 51,249. The federal census report for 1950 shows said city to have a population of 39,892. We have not been informed as to the number of years it has been a constitutional charter city, but we have been informed that it was such prior to 1960. It had a population sufficient to meet the population requirements of Section 94.400, supra, of not less than ten thousand and less than three hundred thousand inhabitants according to the last preceding federal decennial census, and had such a population on June 27, 1960 when its city council duly enacted city ordinance, Bill No. 5822, fixing the library tax rate at one mill on the dollar assessed valuation, for the period of 1960-61. The Council was legally authorized by Section 94.400, supra, to enact such ordinance, and the library tax thus authorized by it was a valid tax. Assuming the library tax thus authorized has been assessed and levied for said period of 1960-61, prior to the city's application for a state aid grant to its library, for the period 1961-62, in accordance with that portion of Section 181.060, supra, quoted above, said library is eligible for a state aid grant under provisions of said section.

#### CONCLUSION

Therefore, it is the opinion of this office that when a constitutional charter city levies and collects a library tax of one mill on the dollar of assessed valuation, imposed by city ordinance under authority of Sections 137.020 and 94.400, RSMo 1959, said tax sufficiently meets the requirements of Section 181.060, RSMo 1959, as to amount, and if the tax has been duly assessed and levied for the year preceding that in which application for a state aid grant is made for its library, such library is eligible for a state aid grant under provisions of said Section 181.060.

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

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

PNC:MW