

LIBRARIES:
COUNTY LIBRARY DISTRICTS:

Only city, village and township libraries organized as provided by Article 5 of Chapter 99, R. S. Mo. 1929, are exempt from provisions of act forming county library districts.

March 8, 1940



Miss Ruth O'Malley, Secretary
Missouri Library Commission
Jefferson City, Missouri

Dear Madam:

This is in reply to yours of recent date wherein you submit a question pertaining to county library districts based on the following statement of facts:

"May I ask your opinion on a point in the law governing county libraries in Missouri Revised Statutes of 1929, Section 13463.

"It has generally been assumed that the intent of the law regarding the exemption of libraries supported by taxation has referred to libraries for which a legal tax has been voted under Article 5, Sections 13448 - 13462.

"This intention of the law has been questioned by Centralia in Boone County where a campaign for a County Library has been inaugurated. Centralia is receiving the sum of \$180.00 from the City Council, although no legal tax has been voted by the citizens of that city.

"In your opinion does the fact that a city is receiving an appropriation of the city disqualify that city from participation in the vote for a county library tax?"

County library districts are formed and operated under and by virtue of the provisions of Article 6 of Chapter 99, R. S. Missouri 1929. The provisions for the formation of such districts are provided for in Section 13463 of said article. This section provides as follows:

"Whenever one hundred (100) tax-paying 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 pro-

vided in section 10249, R. S. 1929. 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."

The remainder of this article, with the exception of Section 13467, R. S. Missouri 1929, deals with the

administration of the county library district act. Section 13467 of Article 6 provides as follows:

"Whenever a free public library now or hereafter established and maintained, at least in part, by public taxation, already exists in any city or town within the territory of the county, all property in such city or town shall be exempted from any tax levy for the support of the free county library in such county library district, and the qualified voters of such city or town shall not be permitted to vote on the proposition for establishing _____ county library district, or on the proposition for a tax levy for establishing or maintaining a free county library."

It will be noted that any city or town within the territory of the proposed county library district, which has a public library and which is maintained by public taxation, is exempted from the tax authorized under the county library act and the residents of such city are not permitted to vote on the proposition for establishing the county library district.

Section 13448 of Article 5 of Chapter 39, R. S. Missouri 1929, provides for the establishment and maintenance of a free public library in cities, villages and townships. This section provides as follows:

"When one hundred taxpaying voters of any incorporated city shall petition the mayor and common council asking that an annual tax be levied for the establishment and maintenance of a free public library in such incorporated city, and shall specify in their petition a rate of taxation, not to exceed two mills on the dollar annually, and in cities of over one hundred thousand inhabitants not to exceed two-fifths of one mill

annually on all the taxable property in the city, such mayor and common council shall direct the proper officer to give notice in his next legal notice of the annual election, or special election, which may be called for the purpose of voting on such question, that at such election every voter may vote 'for a _____ mill tax for a free public library,'

or

'against a _____ mill tax for a free public library,' specifying in such notice the rate of taxation mentioned in said petition; and if the majority of votes cast on such proposition shall be 'for the tax for the free public library,' the tax specified in such notice shall be levied and collected in like manner with other general taxes of such incorporated city, and shall be known as the 'library fund.' Provided, that such tax shall cease in case the legal voters of any such incorporated city shall so determine by a majority vote at any annual election held therein."

In your request you indicate that the Centralia library was not established and maintained in accordance with the provisions of said Section 13448. However, you do state that the library receives from city funds one hundred eighty dollars (\$180.00) per year although no legal tax has been voted authorizing such appropriation. Again referring to the acts of the General Assembly providing for the establishment and maintenance of public libraries out of public funds it is quite apparent that that body has intended that such library shall be established and maintained in accordance with the provisions of the statutes applicable thereto.

The public library referred to by the Lawmakers in Section 13467, supra, is the one which the city or

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town shall establish and maintain in accordance with the provisions of said Section 13448. That being the case, the property in the city or town which has not established and maintained its library in accordance with said Section 13448 would not be exempt from the taxes authorized by said Article 6 pertaining to county libraries and the qualified voters of such town or city would be permitted to vote on the proposition for establishing the county library district.

CONCLUSION.

From the foregoing it is the opinion of this department that the fact that a city library is receiving an appropriation from the city council would not disqualify the residents of such city from participating in the vote for the county library therein provided such city has not established and is not maintaining a free public library in accordance with the provisions of Section 13448, R. S. Missouri 1929.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

COVELL R. HEWITT
(Acting) Attorney General

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