

TAXATION:  
CONSTITUTIONAL  
LAW:

Levy of a tax for purpose of county library. In addition to tax levy as limited by Sec. 11(b) of Art. X of Const. Such levy will not prevent county court from increasing tax levy for county purposes within limit set by Sec. 11(b) of Art. X of Const. Only limitation is that tax shall not be levied in one year which will produce mathematically more than 10% in excess of taxes of previous year.

April 1, 1947

FILED

12

4/14  
Mr. Joe N. Brown  
Assistant Prosecuting Attorney  
Greene County  
Springfield, Missouri

Dear Sir:

This is in reply to your letter of recent date, requesting an official opinion of this department, and reading as follows:

"The County Court has propounded the following question:

"In the event that a proposition for the assessment of a tax of two mills on the dollar for the purpose of a county library fund is approved at a coming election will such a tax prevent the County Court, if necessary, from increasing its present proposed levy of forty-four cents on the hundred dollars to fifty cents on the hundred dollars, which is the constitutional limitation for this County under Section 11 (b) of Article 10 of the Constitution."

"Please find attached a copy of our letter to the County Court wherein we state that in our opinion the library tax would not prevent the County Court from the levy of a tax up to the maximum of fifty cents on the one hundred dollars assessed valuation for general county purposes under Section 11(b) of Article 10.

"We shall appreciate receiving your opinion on this matter."

Senate Bill No. 370 of the 63rd General Assembly provides as follows:

"Section 1. 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 300,000 inhabitants nor more than 600,000 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.

"Section 2. Since the statutes are inadequate to permit a levy of taxation for library purposes in accordance with Section 11, Article X of the Constitution in excess of all other rates otherwise permitted by law and because it is necessary to make such levy for library purposes for the immediate preservation of the public peace, health and safety of the inhabitants of this state, an emergency exists within the meaning of the Constitution and this act shall be in full force and effect from and after its passage and approval."

The provision of Senate Bill No. 370 authorizing a levy made for library purposes to be in addition to the constitutional limits of taxation prescribed by Section 11 of Article X of the Constitution, which limits are found in Section 11(b) of such article, is in conformity with and is the authorizing by law of a levy under authority of the last clause of Section 11(c) of Article X, in excess of the limit set by Section 11(b) of such article.

Section 14767, R. S. Mo. 1939, provides that upon petition of one hundred taxpayers of a county who are outside of cities in such county maintaining public libraries in part at least by taxation, such petition asking for the formation of a county library district and asking that an annual tax of not to exceed two mills on the dollar be levied, the county court shall submit

the proposition at an annual election the first Tuesday in April; and further provides that if a majority vote is cast for establishment of the district and for the levy of the tax, the district shall be established and the tax levied and collected in like manner with other taxes in the rural school districts of the county.

Section 14767, R. S. Mo. 1939, is the law authorizing the county library district to support and conduct a library, and such section, together with Section 14773, R. S. Mo. 1939, provides the amount of the tax as now prescribed by law, that is, two mills on the dollar for maintaining and conducting a free county library, and an additional tax of one and one-half mills on the dollar for building purposes, for a period not to exceed five years, when such additional tax for building is voted.

Since Section 14767, R. S. Mo. 1939, now authorizes a tax levy not to exceed two mills on the dollar when voted by the majority of those voting in an election in a proposed library district, such a tax levy is the levy specified in Senate Bill No. 370, and is by the provisions of that bill in addition to the tax limit in Section 11(b) of Article X of the Constitution.

The only restriction on the county court's authority to levy the fifty-cent limit for county purposes in Greene County is that provision of Section 11046 of House Committee Substitute for House Bill No. 468 of the 63rd General Assembly, providing that no county court shall order a rate of levy that will produce mathematically more than ten per cent in excess of the taxes levied for the previous year.

#### CONCLUSION

It is the opinion of this department that a tax levy of two mills on the dollar for the purpose of a county library fund in Greene County is a levy in addition to the limit of the rate of taxation as fixed by Section 11(b) of Article X of the Constitution. The tax levy of two mills on the dollar for the purpose of a county library fund in Greene County will not prevent the county court from increasing the present tax rate of forty-four cents on the one hundred dollars for county purposes. The only limit on the tax levy for county purposes in Greene County, within the limit set out by Section 11(b) of Article X of the

Mr. Joe N. Brown - 4

Constitution, is that of Section 11046 of House Committee Substitute for House Bill No. 468 of the 63rd General Assembly, providing that no county court shall order a rate of levy that will produce mathematically more than ten per cent in excess of the taxes levied for the previous year.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

---

J. E. TAYLOR  
Attorney General

CBB:HR