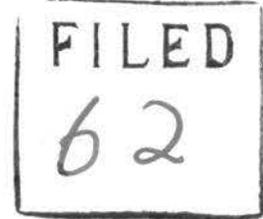


COUNTY LIBRARY: Qualified voters of a city having a tax-supported free library may not vote on the question of becoming a part of a free county library system at the same time the county votes on the establishment of a county library system.

May 20, 1948



Miss Kathryn P. Mier
State Librarian
State Office Building
Jefferson City, Missouri

Dear Miss Mier:

This is in reply to your letter of recent date in which you request an opinion of this department, which is in words and figures as follows:

"Revised Statutes of Missouri, 1939, Chapter 110, Article 6, Sections 14767 and 14771, provide for the establishment of a County Library District, excluding cities and towns maintaining tax-supported libraries from voting or from additional county library taxes.

"Section 14772 provides that a city or town maintaining a library may, upon petition, submit to a vote a proposal to become part of the county library.

"Barry County proposes to vote on the establishment of a county library in April 1948. Monett and Cassville have tax-supported libraries, but the library boards of both towns have asked if, under the law, it would be possible for them to submit to the voters the question of becoming part of the county library at the same time the county votes?"

Your request goes into the question of whether or not a city, which has a tax-supported library, may submit to the voters of the city the question of whether or not it will become a part of the free county library system at the same time that the question of establishing a county library system is voted upon in the county in which such city is located.

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County library districts are established under the provisions of Section 14767, R. S. Mo. 1939, which reads in part as follows:

"Whenever one hundred (100) taxpaying 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 afore said 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 provided in section 11542, R. S. 1939. 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,'

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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. * * * * "

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This section clearly provides that only the citizens of the county in the territory outside cities which have a tax-supported library may take part in the election to establish a county library.

Section 14772, R. S. Mo. 1939, sets out the procedure for cities which have a tax-supported library to become a part of the county library system. This section also provides that after the foregoing procedure has been followed, such town or city shall thereafter become a part of the free county library district. However, the proviso clause in this section seems to provide also that the question of such city or town becoming a part of the county library district shall be presented to the voters and the procedure for submitting this question is to be the same as is set out in Section 14767, supra, which is the procedure for establishing a county library district.

By a reading of all of said Section 14772, and taking into consideration the fact that the lawmakers have generally provided that the electors of any subdivision may have the privilege to determine by vote the policies thereof, we think the most reasonable construction of this statute is as stated above, that is, the electors of a city library district do have a right to determine by a vote whether or not the city district will become a part of the county library district.

The first clause of said Section 14772, is plain and unambiguous. It provides "after the establishment of a free county library, etc." The proposition for the city or town district to become a part of the county district must also be approved by the board of directors of the county district.

The directors of the county library board are appointed under Section 14768, R. S. Mo. 1939, which provides in part as follows:

"For the purpose of carrying into effect this article, in case a county library district is established and a free county library authorized as provided in section 14767 of this article, there shall be created a county library board which shall consist of five members, the county superintendent of schools and four other members to be appointed by the county court;
* * "

It will be noted that the county library board is not set up until the procedure for establishing the county library district

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under Section 14767 has been followed. The city library district, which desires to become a part of the county library district, must wait until there is a board of directors of a county library district, which must approve the city's proposal to become a part of the county library district. Therefore, the city library district, having been required to submit its proposed annexation proposition to the county library directors, and since said Section 14772 provides that the officials of the city may become annexed to the county library system after the establishment of the free county library, then the city could not vote on the proposition of becoming a part of the county library system until the county library system had been established.

CONCLUSION

It is, therefore, the opinion of this department that the proposition of a city, which has tax-supported libraries, to become a part of the county library system, may not be submitted at the same time that the question of the establishment of a county library is submitted.

Respectfully submitted,

TYRE W. BURTON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General