

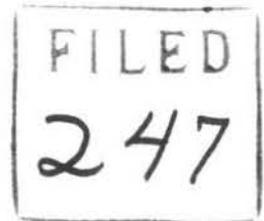
LIBRARIES:

House Bill 1114 of the 76th General Assembly, Section 182.620, V.A.M.S., provides two alternative methods for the creation of a consolidated public library district. One calls for action by the respective library boards and the county court or the county chief executive officers and the other for an election after a petition of five percent of the registered voters has been submitted. If the first procedure is followed, a district is created and no election under the second procedure may be held to rescind the action creating the district.

OPINION NO. 247

December 20, 1973

Mr. Charles O'Halloran
State Librarian
Missouri State Library
308 East High Street
Jefferson City, Missouri 65101



Dear Mr. O'Halloran:

This is in response to your request for an opinion on the following question:

"H.B. 1114, passed by the Seventy-Sixth General Assembly, provides in Section 182.620, the procedure for the consolidation of county public library districts. Paragraph one provides for a resolution by the governing boards of the involved county library districts. Paragraphs two, three, four and five provide for an election by the people of the districts on the creation of a consolidated public library district. Paragraph six provides for action following the election or the adoption of the resolution.

"It appears that a consolidated public library district may be formed either by a resolution of the governing boards or by an election and that there are two possible methods to achieve consolidation. My question is, are there two alternative methods or must there be a resolution by the board followed by an election by the people?

Mr. Charles O'Halloran

"A further question would be: Should the governing boards be empowered to form a consolidated public library district by resolution without the necessity of an election, and should the boards do so, may the electors petition for an election on the proposition and should the election be held and the voters disapprove the consolidation, would the action of the board thereby be rescinded?"

You are correct in your observation that House Bill 1114 of the 76th General Assembly (Section 182.620, V.A.M.S.), provides two methods for the creation of a consolidated public library district. The first method (Section 182.620(1), V.A.M.S.), provides that the governing boards of each district to be included in the consolidated district first must approve the consolidation and then apply to the respective county courts or county chief executive officers for their concurrence. If the county courts or county chief executive officers concur then a consolidated public library district is created. The other alternative is set forth in Section 182.620(2-5), V.A.M.S. Section 2 of Section 182.620 provides for a petition of five percent of the qualified electors of each of the constituent districts requesting that an election be held on the question of consolidation. Section 5 of Section 182.620 provides that if a majority of the voters in each county approve the consolidation the districts shall then become consolidated.

If the procedure specified in Section 182.620(1) is followed (which does not call for an election) and a consolidated district is created, the district is in existence and Section 182.620(2-5) providing for an election would not apply. Therefore, the voters could not rescind the consolidation by means of an election under the provisions of Section 182.620(2-5).

CONCLUSION

It is the opinion of this office that House Bill 1114 of the 76th General Assembly, Section 182.620, V.A.M.S., provides two alternative methods for the creation of a consolidated public library district. One calls for action by the respective library boards and the county court or the county chief executive officers and the other for an election after a petition of five percent of the registered voters has been submitted. If the first procedure is followed, a district is created and no election under the second procedure may be held to rescind the action creating the district.

Mr. Charles O'Halloran

The foregoing opinion, which I hereby approve, was prepared by my assistant, Charles A. Blackmar.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General