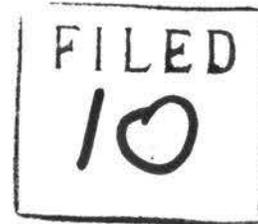


LIBRARIES:
CITY LIBRARIES:
COUNTY LIBRARIES:

Once a county library district is created by the county court, such district exists whether or not the voters adopt a tax levy for the district; and after such a district is created, a city library district may not be created within the county library district.

OPINION NO. 10

May 16, 1974



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:

"The General Assembly passed S.B. 583 during the 76th General Assembly. This measure was approved by the Governor and took effect on August 15, 1972. Included in S.B. 583 was Section 182.015 which empowered a County Court to establish a county library district and provided further that should the Court establish the district the Court must submit to the voters of the district a proposition providing for a tax to support the district.

"Should a County Court create a county library district under this provision and should the voters fail to approve a tax to support it, does the district continue to exist? Section 182.140, RSMO, permits the citizens of any city in the State having a population of 5,000 or more to create a city library district. Should such a city exist in a county in which the County Court has created a district under Section 182.015, and in which district the voters have failed to approve a tax for the county library, may the citizens of that city exercise their rights under Section 182.140 and create a city library district?"

Mr. Charles O'Halloran

Section 182.015, RSMo Supp. 1973, provides a method for the creation of county library districts by action of the county court without petition or submission to the voters, as would be the case if a district was created pursuant to Section 182.010, RSMo 1969. If the county court has created a library district in accordance with the procedures set forth in Section 182.015, it shall submit a rate of taxation for the library district to the voters in the same manner as the tax rate would be submitted to the voters if the district had been formed under the provisions of Section 182.010. If the voters fail to adopt the tax rate, there is no provision which provides for the disincorporation of the district. The district continues to exist and has to depend upon appropriations from the state pursuant to the authority conferred upon the General Assembly under Article IV, Section 10 of the State Constitution to grant aid to such public library and upon gifts of real and personal property for the use and benefit of the county library, Section 182.070, RSMo 1969, until such time as the voters of the district adopt a tax levy.

Section 182.140, RSMo 1969, providing for the creation of city library districts does not expressly prohibit a city that is within a county library district from establishing a separate city library district. However, to do so would be to establish a library district within a library district. Section 182.010 providing for the creation of county library districts is very explicit in providing that a newly created county district is not to include territory of cities and towns within the county which maintain and control free public libraries. Section 182.480, RSMo 1969, provides that when a city maintaining a library district annexes territory that is part of a county library district the territory so annexed remains as part of the county library district and such property is subject to taxation only by the county library district. Section 182.291, RSMo Supp. 1973, provides a method by which a county library board can request the county court to permit the organization of a city-county library which shall provide library services to residents of the county by appropriate means from the city library. Section 182.610, RSMo Supp. 1973, provides that two or more county libraries may join together and create a consolidated public library district. While the legislature has not abolished city library districts, or prevented their formation in cities located in counties which do not contain a county library district, the legislature has restricted encroachment by city districts into territory containing the county library district and has also provided that a city library district may be abolished by the formation of a city-county library district by the county court. Based on the foregoing, we do not believe that a city may organize a library district within a county library district.

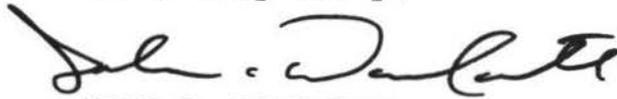
Mr. Charles O'Halloran

CONCLUSION

It is the opinion of this office that once a county library district is created by the county court, such district exists whether or not the voters adopt a tax levy for the district and that after such a district is created, a city library district may not be created within the county library district.

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

Yours very truly,

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

JOHN C. DANFORTH
Attorney General