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ATTORNEY GENERAL

OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

February 27, 1976

OPINION LETTER NO. 36

Honorable Bob F. Griffin
Representative, District 10
Room 400B, State Capitol Building
Jefferson City, Missouri 65101

Dear Representative Griffin:

This is in response to your request for an opinion from this office as follows:

"When a Statute establishes a certain population count in a city or county as prerequisite to utilizing provisions of that law to take some action, is the last federal decennial census taken for that city or county controlling or would a later special census conducted in accordance with Section 71.160, RSMo 1969 be compelling? Section 182.140, RSMo 1969 establishes the procedure for establishing a free public library in a city now or hereafter containing more than 5,000 or less than 600,000 inhabitants.

"I have introduced legislation to reduce the minimum population requirement to 4,000 in order that the City of Cameron might take advantage of this law because after having taken a special census as provided by Section 71.160, RSMo 1969, the City's population was determined to be 4,500. However, the population of the City of Cameron established by the 1970 federal decennial census was fixed at 3,960."

Honorable Bob F. Griffin

Section 182.140, RSMo, to which you refer, provides for any city now or hereinafter containing more than 5,000 and less than 600,000 inhabitants may submit to the voters a proposition for an annual tax to be levied for the establishment and maintenance of a free public library in the city as provided therein. We understand that the City of Cameron has a population of 3,960 according to the 1970 federal decennial census but that the city's population was determined to be 4,500 under a special census that was taken by the city as provided for in Section 71.160, RSMo. You inquire whether the population as determined by the federal census or the population as determined by the special census would govern if the minimum population requirement under Section 182.140, RSMo, was reduced to 4,000.

Statutory provisions for the taking of a special census by any incorporated city or town is provided for in Sections 71.160, 71.170, and 71.180, RSMo. Section 71.170, RSMo, provides in part:

" . . . Upon the completion of such census, the supervisor shall certify the result thereof to the secretary of state, and, from and after the date of the filing of such certificate with the secretary of state, the population of such city or town, as given in such certificate of the supervisor, shall be the legal census and population of such city or town, for all purposes whatsoever, under the constitution and laws of the state."

It is our view that the census population of the City of Cameron as determined by the special census would govern over the census as determined by the decennial census in determining whether the City of Cameron could establish a public library under the provisions of Section 182.140, RSMo.

Yours very truly,



JOHN C. DANFORTH
Attorney General