

May 10, 2024

LIBRARY FUNDING: CLARIFICATION REGARDING ANNUAL BUDGET VOTES FOR LIBRARIES UTILIZING STATE EDUCATION LAW SECTION 259

Inquiry:

Whether a public or association library utilizing a tax levy referendum authorized by Section 259 of the New York Education Law ("Education Law §259") is obligated to submit a proposition to district voters on an annual basis, even if there is no proposed increase in the budget.

Response:

No. Public and association libraries operating under a tax levy referendum authorized by Education Law §259 are not required to submit a proposition to district voters annually. A public vote is only mandated when the proposed budget reflects an increase over the previous year's authorized funding amount.

Rationale:

Education Law §259 authorizes public and association libraries to establish a tax levy for library purposes through a voter referendum. However, the statute is silent on the frequency of such votes. By implication, the requirement for a public vote is triggered only when there is a proposed change to the authorized funding level, necessitating voter approval.

Supporting Evidence:

The following legal resources support the above response regarding annual budget votes for school district public libraries. Sources were compiled from citations from Education Law, Attorney General Opinions, NYS Comptroller Opinions, and Commissioner Opinions.

"Taxes, in addition to those otherwise authorized, may be voted for library purposes by any authority named in section two hundred fifty-five of... [the Education Law (quoted at p 285)] and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor until changed by further vote and shall be levied and collected yearly, or as directed, as are other general taxes" [(Education Law s259(1)(a))].

In an early opinion interpreting the provisions of then University Law ss36 and 38 which predated Education Law s255, the Attorney General stated:

“...[I]t follows that fixed sum of money agreed to be appropriated by a town or municipality, to share in the cost of maintaining a library, continues to be an annual appropriation, and the amount thereof may be compelled to be levied and collected annually, for the purposes specified, until the agreement entered upon is abrogated” [1903 Op Atty Genl 515)].

Specific case evidence: After voters in the school district rejected a proposal to increase funding for the public library at the annual meeting, the library board took legal action. They requested a court order directing the school board to levy (collect) a tax that would raise enough money to match the previous year's library funding amount.

“In the Court’s opinion the [previous] appropriation... must be considered as the amount fixed by the District for the annual maintenance of the library until it is increased by the adoption of another and larger budget, or until support of the Library is withdrawn by formal, unequivocal action of the voters. The defeat of a proposed increased budget cannot be construed as such a withdrawal of support. It follows that the petitioners are entitled to the relief sought...” [(Peninsula Public Library v Board of Education of Union Free School District No. 15 of the Town of Hempstead,, Supreme Court, Nassau County, Special Term, Part I (May 26, 1959 (unreported))].

In a subsequent opinion, the Comptroller stated:

“...Education Law s259(1) provides, in pertinent part: ‘Taxes, in addition to those otherwise authorized, may be voted for library purposes by any authority named in section two hundred fifty-five... [of the Education Law] and shall, unless otherwise directed by such vote, be considered as annual appropriations therefor until changed by further vote and shall be levied and collected yearly, or as directed, as are other general taxes....’ In the absence of words to the contrary in the proposition submitted to the voters, an appropriation for library purposes need not be voted on each year as long as the amount to be appropriated remains the same [emphasis supplied].... As a general rule, a change is effected by an affirmative vote on a resolution which differs from the one adopted earlier. This would be true whether the new resolution were to increase, decrease or entirely eliminate the present library appropriation. In the absence of an affirmative vote on a different resolution, we think that the duly adopted resolution would remain in effect. The defeat of a resolution to raise a greater amount for library purposes should not have the effect of repealing the earlier proposition, unless the resolution stated that it was to have this effect... ...The defeat of a resolution to raise a greater amount for library purposes does not invalidate the resolution adopted earlier, and the district may continue to raise the lower amount” [(26 Op State Compt 117, 1970)].

A school district public library board appealed a decision by the local school board regarding the library's funding request. In response, the Commissioner of Education stated:

“Libraries may operate on previously approved budgets and obtain tax levies therefore until such a budget is changed by vote. Since the prior year’s budget was approved for the library [by school district voters] and not the cash flow schedule subsequently submitted by the library, the library is entitled to the tax dollars necessary to fund its previously approved budget, not the previously submitted cash flow. Additionally the library is not required to use its surplus to reduce the amount of tax levied” (Appeal of the Board of Trustees of the Lindenhurst Memorial Library..., 1990, Commissioner’s Decision 12,306, 29 Ed Dept Rep 316)].

The New York State Education Department's Law Division addressed the question of whether a school district public library requires an annual budget vote. They clarified that:

“I have carefully reviewed the provisions of the Education Law relating to appropriations for school district public libraries, and I have examined the legislative history of chapter 419 of the Laws of 1977 [which amended Education Law s260(7) effective January 1, 1978].... It is my opinion that notwithstanding the language which has caused concern for the counsel for the school district, there is no evidence of legislative intent that appropriations for library purposes must be voted upon each and every year when the library is not asking for an increase. [Emphasis added] In the first instance, the provisions of chapter 419 do not address the provisions of subdivision 1 of section 259 of the Education Law. Secondly, the memoranda included in the legislative bill jackets do not reveal any evidence of legislative intent to do anything but to increase the authority of library trustees to call and conduct meetings for library purposes. There is no indication that the Legislature intended to require annual meetings to conduct votes for school district library appropriations either by the school district or by the board of trustees of the library. This interpretation is supported by the letter from the Division of Municipal Affairs of the Department of Audit and Control [which made the following statement: ‘This appropriation (in total) for library purposes is considered a continuing mandated appropriation which does not have to be voted on each year (Education La. s259[1]) unless it is increased by the adoption of another and larger appropriation. The defeat of a proposed increased library budget cannot be construed as a withdrawal of support.].... This controversy raises the question whether it might be preferable to require annual votes on school district public library budgets in those school districts where votes occur on such matters. However, that requirement may only be imposed by the Legislature....” [(Education Dept Law Div, ltr, March 3, 1992)].

Conclusion:

Therefore, a library operating under a Section 259 referendum has no legal compulsion to present a proposition for voter approval to simply maintain the current level of funding, provided there is no budgetary increase.

Disclaimer:

This information is for educational purposes only and should not be construed as legal advice. Please consult with an attorney for specific legal questions about your situation.

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