



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

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FILE NO. 96-028

REVENUE:
Property Tax Extension
Limitation Law

Honorable David R. Akemann
State's Attorney, Kane County
Kane County Judicial Center
37W777 Route 38, Suite 300
St. Charles, Illinois 60175-7535

Dear Mr. Akemann:

I have your letter wherein you inquire whether a public library district which is subject to the Property Tax Extension Limitation Law (35 ILCS 200/18-185 et seq. (West 1994)) may increase taxes in excess of the limitations imposed by the Law to a rate approved by referendum prior to the enactment of the Property Tax Extension Limitation Law, without holding another referendum. For the reasons hereinafter stated, it is my opinion that the public library district may not impose a tax in excess of the statutory limitation without additional referendum approval.

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Your letter states that a tax rate increase for the St. Charles Public Library District (hereinafter "the District") was adopted by referendum on November 4, 1986. Under the Public Library District Act of 1991 (75 ILCS 16/1-1 et seq. (West 1994)), a library board generally may not levy a tax for the establishment, maintenance and support of a library in excess of 0.15% of the value of all taxable property within the district, as equalized and assessed by the Department of Revenue. (75 ILCS 16/35-5(a) (West 1994).) The annual tax rate may be increased to not more than 0.60% by passage of a referendum at a regularly scheduled election. (75 ILCS 16/35-10(a) (West 1994).) The tax rate limit for the District was raised to .27% pursuant to the 1986 referendum, but the District did not levy at the full tax rate at any time subsequent thereto. The District recently constructed a new building and now wishes to implement the full tax rate from the 1986 referendum in order to provide services in the new and expanded facility.

The preamble to the Property Tax Extension Limitation Law (Public Act 87-17, effective October 1, 1991) (hereinafter "Tax Limitation Law") recites the General Assembly's findings regarding the need for, and the solution provided by, that enactment. The preamble to Public Act 87-17, effective October 1, 1991, states, in pertinent part, as follows:

"WHEREAS, the General Assembly finds that the rapidly escalating growth of property tax extensions and unpredictable fluctua-

tions in property tax extensions in Cook County and the contiguous counties has resulted in a tremendous burden on the taxpayers of these counties, in particular on the stable, long-term property owners who frequently live on fixed incomes. The burden is particularly acute in the collar counties contiguous to Cook. Population growth in the collar counties due to urban migration, as evidenced by substantial new construction and an increase in the demand for basic local government services and enhanced facilities and services, as well as the proliferation of special taxing districts, have all contributed to consistent double digit increases in property tax extensions in these counties -- increases that are over twice the rate of inflation. * * * Personal income in the form of individual wages has not kept pace with skyrocketing tax demands and taxpaying citizens are now demanding relief from this increasingly onerous and unpredictable burden; and

WHEREAS, the General Assembly further finds that a reasonable and responsible approach to containing such phenomenal increases in property tax extensions in these affected counties is to provide a limitation on such increases that allows taxing districts in counties contiguous to Cook County to increase revenue modestly over prior year extensions and to provide citizens the opportunity to further increase extensions by referendum. * * *

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The Tax Limitation Law limits increases in tax extensions and amounts levied by non-home rule taxing districts in certain counties. (35 ILCS 200/18-195 (West 1994).) Taxing districts which are subject to the Tax Limitation Law include non-home rule units of local government, such as library districts, which possess the authority to levy taxes. (35 ILCS

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200/1-50 (West 1994); 35 ILCS 200/18-185 (West 1995 Supp.), as amended by Public Act 89-510, effective July 11, 1996.) Counties in which the limits are applicable include those which are contiguous to a county of 3,000,000 or more inhabitants; thus, units of local government in Kane County are subject to the Tax Limitation Law. (35 ILCS 200/18-185 (West 1995 Supp.), as amended by Public Act 89-510, effective July 11, 1996.) Tax extensions may be increased over the previous year's no more than 5% or the percentage increase in the Consumer Price Index, whichever is less, without referendum. (35 ILCS 200/18-205 (West 1994).) The limiting rate is a fraction, with a numerator consisting of the last preceding aggregate extension base multiplied by an amount equal to one plus the extension limitation. The denominator consists of the current year's equalized assessed value, without including new property or the recovered tax increment value. (35 ILCS 200/18-185 (West 1995 Supp.), as amended by Public Act 89-510, effective July 11, 1996.) Taxing districts that reduced their aggregate extension in the previous levy year are permitted to use the highest aggregate extension for any of the prior three years. (35 ILCS 200/18-185 (West 1995 Supp.), as amended by Public Act 89-510, effective July 11, 1996.)

A taxing district may increase the extension limitation by more than 5% or in excess of the Consumer Price Index percent

age increase for the current year only by referendum. A majority of the voters must approve the adoption of a higher extension limitation by referendum conducted during a regularly scheduled election. (35 ILCS 200/18-205 (West 1994).) It is important to note that referendum approval of a higher extension limitation is effective for only the current levy year. Indeed, section 18-190 of the Tax Limitation Law (35 ILCS 200/18-190 (West 1995 Supp.)) requires a direct referendum for tax rate increases above the limiting rate that were previously allowed by statute without a referendum or were only subject to a back door referendum. (35 ILCS 200/18-205 (West 1994).)

To determine the limiting rate when a rate increase is approved by referendum, the aggregate extension base is multiplied by the statutorily determined rate increase factor. (35 ILCS 200/18-230 (West 1994).) Section 18-230 of the Tax Limitation Law (35 ILCS 200/18-230 (West 1994)) expressly addresses new rates or rate increases approved by referenda after December 31, 1988, for taxing districts that did not increase their rate to the new maximum for the fund. The rate increase factor is adjusted in such circumstances for four levy years after the year of the referendum. (35 ILCS 200/18-230 (West 1994).)

Generally, the expression of one thing in a statute impliedly excludes all others, even where no words of prohibition exist. (Baker v. Miller (1994), 159 Ill. 2d 249, 260.) The Tax

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Limitation Law does not provide for an adjustment to the rate increase factor for any tax referenda passed prior to December 31, 1988, if the full tax rate was not implemented by the taxing district at that time or at any time prior to the effective date of the Tax Limitation Law. It follows that taxing districts which did not implement the full rate increase approved by a referendum passed prior to December 31, 1988, are excluded from using the adjustment to the rate increase factor provided by Section 18-230 (35 ILCS 200/18-230 (West 1994)) and must submit any tax increase in excess of the limiting rate to approval by referendum.

Statutory language must be examined as a whole, and each section should be considered in connection with every other section when determining legislative intent. (Antunes v. Sookhakitch (1992), 146 Ill. 2d 477, 484.) Support for this conclusion can also be found in Section 18-195, which provides that "[t]ax extensions made under Sections 18-45 and 18-105 are further limited by the provisions of this Law." (35 ILCS 200/18-195 (West 1994).) Section 18-45 (35 ILCS 200/18-45 (West 1994)) governs the computation of rates by the county clerks and provides that clerks may extend no more than the maximum allowable levy by any statute. Section 18-105 (35 ILCS 200/18-105 (West 1994)) prohibits the county clerk from extending a tax levy based on a rate in excess of the rate permitted by referendum or statute for the taxing district. While the District's 1986

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referendum may comply with the referendum requirements of the Public Library District Act of 1991, which allows increases previously approved by referenda under the prior library district laws to satisfy the requirements (75 ILCS 16/35-10(b) (West 1994)), that is only one statute that must be considered by the county clerk in determining the tax rate.

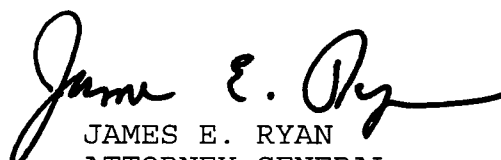
The county clerk must also determine the maximum amount of tax authorized to be levied by the Tax Limitation Law. The Tax Limitation Law was effective in Kane County on October 1, 1991, and imposed a limiting rate. The limiting rate is based on the previous year's levy, and a referendum to increase the extension limitation is effective for only the current levy year. (35 ILCS 200/18-195, 200/18-205 (West 1994).) Clearly, the General Assembly intended for the voters to approve increases above the extension limitation each and every year a taxing district proposes to levy at a rate in excess of the limitation. Allowing the District to impose a tax rate limit approved by referendum ten years ago which was never fully implemented would contravene the provisions of the Tax Limitation Law requiring yearly voter approval of higher extension limitations.

Based upon the foregoing, it is my opinion that the St. Charles Public Library District, which passed a tax referendum

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prior to December 31, 1988, but did not implement the full tax rate at that time or any time prior to the enactment of the Tax Limitation Law, may not now implement that rate if it will exceed the limiting rate without a second referendum.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL