

Questions from RAILS City Library Directors Networking Group

- 1. Is the Library Act exempt from home-rule, except for the levy? Or is it exempt unless the Library Board requests otherwise?**

ANSWER: All libraries are non-home rule even city, village, or town libraries that are located in home rule cities, villages, or towns. However, home rule municipalities may share their home rule power to exceed the tax limitations that would otherwise apply to a municipal library.

- 2. Can a home-rule city as corporate authority enact local ordinances that “trump” the Local Library Act? (7 library trustees instead of 9, 4-year terms, etc.)**

ANSWER: A home rule municipality does not have the power to change the composition of the library board of trustees from that established by state statute. That would constitute a change in the form of government, which requires a referendum by the governing body (which would be the library, not the municipality). It is important to remember that a municipal library is not a department of the municipality, but instead is a separate unit of government.

There are no cases that discuss whether a home rule municipality can adopt ordinances that “trump” the library statute in other ways, outside of the governance provisions that clearly are not within the municipality’s authority. However, given the fact that the library is a separate unit of government from the municipality, there would be a good argument by a library that the municipality has certain powers (i.e., adopting the tax levy on the library’s behalf) but not operational control that would be interfere with the library’s statutory duties and authority. That being said, the municipality has regulatory authority over the library as it does over other property owners, including zoning and building jurisdiction.

- 3. Is it possible that a city library may have a tax rate is currently above the legal maximum cited in the Local Library Act as a result of the city extending its home-rule privilege to include the library’s portion of the city’s aggregate levy? (Whew!) If so, can the city’s “extension” of home-rule to the library be limited to just the tax rate and not any other part of the Local Library Act?**

ANSWER: Yes, and yes. The only recognized aspect of the City’s home rule power that can be shared with a municipal library is the City’s home rule taxing and borrowing power.

- 4. Since the city includes the library in its aggregate levy and budget or appropriation ordinance, is the city actually approving the library’s budget? Or their “request” for the levy?**

ANSWER: No, the City is not approving the municipal library’s budget. A municipal library has independent authority to control its annual expenditures from currently available money. The City is statutorily obligated to levy taxes requested by a municipal library up to 0.15%, which is the statutory maximum tax levy amount. It is also important

to understand that the City is not including the municipal library in its own levy, budget, or appropriation ordinance as if the library is a department of the City. Instead, the City adopts the library's tax levy on the library's behalf. The library board of trustees should be approving its own budget and appropriation ordinance and not rely on the City to take that action.

5. Do non-home-rule city libraries operate subject to PTELL? Has that been more difficult to levy what the library needs than when they have to convince the City Council, or have those libraries actually seem improved gains?

ANSWER: The library levy comprises part of the City levy and that cumulative levy is subject to PTELL in cities that are not home rule units of government. As discussed above, the courts say the City is obligated to levy taxes requested by the library up to 0.15%.

6. Does city ownership of the Library building affect the library in any way in terms of operations, capital budget, etc.? Is an MOU or lease required for clarity?

ANSWER: While not statutorily required, we do recommend that the City and the municipal library enter into an intergovernmental agreement (IGA) to detail the terms and conditions of the relationship between the city and library, including use of any City-owned buildings or property, sharing of services (financial or otherwise), and any other intergovernmental operations or sharing of services specific to the parties. This is particularly important when the library relies on the City for its building space so that both parties understand who is responsible for maintenance, repair, insurance, etc.

7. Can a city “shut down” a component unit library without the Library Board’s approval?

ANSWER: No. Operational issues such as this are within the jurisdiction of the library board of trustees, not the municipality. If, however, the municipality owns the library building and/or property on which the library sits, that could give the municipality control over the library's use which is why having an intergovernmental agreement (IGA) in place is so important.

8. Is an MOU for every city library necessary to clarify this relationship, or is there a more efficient way we could move forward?

ANSWER: The relationship between each library and the municipality in which it is located is unique. Some cities provide a great deal of administrative aide and others provide less. The more assistance provided by the municipality, the greater the need for an agreement to set the terms and conditions of their relationship. The Local Library Act does not require the municipality to provide administrative support to the library, so such services should be clearly spelled out and an allocation of costs agreed upon.

9. **Since our home-rule municipal library has a tax levy higher than the statutory maximum, my Board has to ask the City Council for approval each year. Consequently, whatever my Board asks City Council for is usually not approved because (quite frankly) they don't have to approve it. How do we get the law changed? It would seem that if the Library Board of Trustees is governing the library, they would know best what tax levy is needed to make sure the library runs at an optimal level.**

ANSWER: First, municipal libraries are not home rule units of government under Illinois law. The municipalities in which the libraries are located may be home rule units of government, but that power and authority does not extend to the municipal library. Instead, home rule municipalities have the authority to extend their home rule powers to exceed the statutory maximum tax levy but are not obligated to do so. Certainly, libraries could lobby for legislative change to provide either a higher maximum tax levy rate or have an automatic extension of home rule powers but that would depend on the interest at the General Assembly level to make that type of change. Alternatively, a municipal library might consider whether it is desirable to become a library district which provides more autonomy for the library and its board of trustees.

10. Are City Library employees Library employees or City employees?

ANSWER: Pursuant to the state law, the library board of trustees has the statutory authority to retain a director to serve as the administrative head of the library. The director, in turn, has the statutory authority to “to hire such other employees as may be necessary.” Those library employees are employees of the library, not the city. The compensation of these employees, the oversight and supervision over these employees, and the discipline or termination, if appropriate, of these employees is solely within the jurisdiction of the library. Also, according to an Illinois appellate court decision in *Village of Winfield v. Illinois State Labor Relations*, library employees are not City employees.

That being said, there could be circumstances where an agency or court finds that there is such “entanglement” between the city and library that the employees may be treated as city employees for certain purposes. An IGA that clearly states that the library employees are not city employees can help clarify this if there is a future dispute.