As Introduced

136th General Assembly
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S. B. No. 426

Senator Cutrona

To amend section 5705.32 and to enact section 3375.94 of the Revised Code regarding the closing of a public library branch and the forfeiture of public library funds for doing so.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5705.32 be amended and section 3375.94 of the Revised Code be enacted to read as follows:

Sec. 3375.94. (A) No board of library trustees that has territory in a county with a population of not less than two hundred twenty thousand but not more than two hundred thirty thousand shall shut down, decommission, or make inactive a library under its control without consent from the board of county commissioners.

(B)(1) Any person may bring an action for declaratory judgment against any board of library trustees that violates division (A) of this section, as provided in Chapter 2721. of the Revised Code. The action shall be filed in a court of common pleas in a county that includes the territory of the library. The alleged noncompliant board of library trustees shall be made the defendant in the action.

(2) The court shall issue a declaratory judgment declaring

the board of library trustees to be noncompliant if the court determines that a party to the action establishes, by a preponderance of the evidence, that the board of library trustees shut down, decommissioned, or made inactive a library under its control without consent from the board of county commissioners.

(3) A court that issues a declaratory judgment pursuant to division (B)(2) of this section shall order the clerk of court to transmit a certified copy of the court's judgment to each county auditor of each county that includes the territory of the library.

Sec. 5705.32. (A) As used in this section:

(1) "Unnecessary collections" mean collections from a tax beyond the reasonably anticipated financial needs of the taxing authority for the specific purposes of the tax after accounting for current fund balances, projected expenditures, and other available funding sources.

(2) "Excessive collections" mean collections from a tax in an amount or at a rate that exceeds what is required to provide services at a level that is consistent with statutory obligations.

(B) The county budget commission shall adjust the estimated amounts required from the general property tax for each fund, as shown by the tax budgets or other information required to be provided under section 5705.281 of the Revised Code, so as to bring the tax levies required therefor within the limitations specified in sections 5705.01 to 5705.47 of the Revised Code, for such levies. The commission may revise and adjust the estimate of balances and receipts from all sources

for each fund and shall determine the total appropriations that may be made therefrom.

If a taxing unit declared its intent to forgo all or a portion of collections under division (E) of section 5705.29 of the Revised Code, the commission shall adjust the rate of each levy as required to result in that reduction in collections.

(C) Except as otherwise provided in section 5705.31 of the Revised Code, the county budget commission may adjust the estimated amounts required from the general property tax for each fund, as shown by the tax budgets or other information required to be provided under section 5705.281 of the Revised Code, so as to bring the tax levies required therefor within levels the commission finds reasonable and prudent to avoid unnecessary or excessive collections. Before reducing the amount or rate of any tax pursuant to this division, the commission shall provide the taxing authority of the levying taxing unit and the levying taxing unit an opportunity to present, at a public hearing, information either considers relevant to the questions of if and to what extent the levy should be reduced.

If the county budget commission adjusts amounts from any tax levied by a taxing unit that is not a qualifying subdivision, the adjustment shall be subject to both of the following:

(1) No levy shall be reduced below the level that would cause it to collect less than what the levy collected in the preceding year, unless funds are available from reserve balance accounts, nonexpendable trust funds, or carryover amounts to offset a reduction below that level, and the budget commission shall consider reserve balance accounts, nonexpendable trust funds, and carryover amounts for that purpose;

(2) No levy may be reduced under division (B) of this section to a level that would cause a school district subject to division (A) of section 3317.01 of the Revised Code to levy less than twenty mills for current operating expenses as required by that division.

~~(D)~~ (D)(1) The commission shall fix the amount of the county public library fund to be distributed to each board of public library trustees that has qualified under section 5705.28 of the Revised Code for participation in the proceeds of such fund. ~~The~~ Except as provided in division (D)(2) of this section, the amount paid to all libraries in the county from such fund shall never be a smaller per cent of the fund than the average of the percentages of the county's classified taxes that were distributed to libraries in 1982, 1983, and 1984, as determined by the county auditor. The commission shall base the amount for distribution on the needs of such library for the construction of new library buildings, parts of buildings, improvements, operation, maintenance, or other expenses. In determining the needs of each library board of trustees, and in calculating the amount to be distributed to any library board of trustees on the basis of its needs, the commission shall make no reduction in its allocation from the fund on account of additional revenues realized by a library from increased taxes or service charges voted by its electorate, from revenues received through federal or state grants, projects, or programs, or from grants from private sources.

(2) If the county auditor has received a copy of a declaratory judgment pursuant to division (B)(3) of section 3375.94 of the Revised Code, the amount allocated to the library that is the subject of that judgment pursuant to division (D)(1) of this section shall be zero.

(E) Notwithstanding the fact that alternative methods of financing such needs are available, after fixing the amount to be distributed to libraries, the commission shall fix the amount, if any, of the county public library fund to be distributed to each board of township park commissioners, the county, and each municipal corporation in accordance with the following:

(1) Each municipal corporation in the county shall receive a per cent of the remainder that equals the per cent that the county auditor determines the classified property taxes originating in such municipal corporation in 1984 were of the total of all of the county's classified property taxes in 1984. The commission may deduct from this amount any amount that the budget commission allows to the board of township park commissioners of a township park district, the boundaries of which are coextensive with or contained within the boundaries of the municipal corporation.

(2) The county shall receive a per cent of the remainder that equals the per cent that the county auditor determines the classified property taxes originating outside of the boundaries of municipal corporations in the county in 1984 were of the total of all of the county's classified property taxes in 1984. The commission may deduct from this amount any amount that the budget commission allows to the board of township park commissioners of a township park district, the boundaries of which are not coextensive with or contained within those of any municipal corporation in the county.

(F) The commission shall separately set forth the amounts fixed and determined under divisions ~~(D)~~ (D)(1) and (E) of this section in the "official certificate of estimated resources," as

provided in section 5705.35 of the Revised Code, and separately certify such amount to the county auditor who shall be guided thereby in the distribution of the county public library fund for and during the fiscal year. In determining such amounts, the commission shall be guided by the estimate certified by the tax commissioner and presented by the auditor under section 5705.31 of the Revised Code, as to the total amount of revenue to be received in the county public library fund during such fiscal year.

(G)(1) At least five days before the date of any meeting at which the budget commission plans to discuss the distribution of the county public library fund, it shall notify each legislative authority and board of public library trustees, county commissioners, and township park commissioners eligible to participate in the distribution of the fund of the date, time, place, and agenda for the meeting. Any legislative authority or board entitled to notice under this division may designate an officer or employee of such legislative authority or board to whom the commission shall deliver the notice.

(2) Before the final determination of the amount to be allotted to each subdivision from any source, the commission shall permit representatives of each subdivision and of each board of public library trustees to appear before it to explain its financial needs.

(H) If any public library receives and expends any funds allocated to it under this section for the construction of new library buildings or parts of buildings, such library shall be free and open to the inhabitants of the county in which it is located. Any board of library trustees that receives funds under this section and section 5747.48 of the Revised Code shall have

its financial records open for public inspection at all reasonable times.

Section 2. That existing section 5705.32 of the Revised Code is hereby repealed.