

**Staffeldt, Darlene**

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**From:** Scheier, James  
**Sent:** Monday, January 28, 2002 3:02 PM  
**To:** Strege, Karen  
**Cc:** Cooper, Bob; Staffeldt, Darlene  
**Subject:** RE: AG opinion and interlocal agreements

The short answer to your question is that the language of the contract (interlocal agreement) controls unless that provision is inconsistent with the provisions of 15-10-420.

Municipalities and counties may form multijurisdictional service districts by entering into an interlocal agreement. 7-11-1105. Local governments who enter the interlocal agreement to create the district are authorized to levy property taxes "in an amount not to exceed that authorized for the district in 7-11-1106." 7-11-1106 requires an ordinance to authorize the district to include "subject to 15-10-420, the maximum property tax mill levy for property taxes in the district." Thus, any maximum property tax mill levy established for the district pursuant to the interlocal agreement must comply with the restrictions of 15-10-420.

As you know, House Bill 124 in the 2001 Legislature (chapter 574) made extensive amendments to statutes governing local government taxation. As the Attorney General recently noted in 49 Op. Att'y Gen. No. 16, 15-10-420 was amended to eliminate numeric mill levies and instead permit a governmental entity to levy sufficient mills to raise the amount of property tax raised in the previous year, subject to certain inflationary adjustments.

From your question I cannot determine whether the existing interlocal agreement between Ravalli County and Stevensville, which provides for a maximum levy of 5 mills, would comply with the limitations of 15-10-420. In other words, I do not know from the information you provided whether a levy of 5 mills would exceed the amount budgeted in the prior year or whether it would be less than that amount. It might be worthwhile for the parties to the interlocal agreement to follow the advice given by the Attorney General in his recent opinion: "I would suggest that in light of the statutory changes . . . , the parties to the agreement should renegotiate its provisions and agree to changes that better fit the statutes as amended."

As noted, the provisions of the statutes authorizing creation of multijurisdictional service districts, cited above, specifically refer to 15-10-420, yet still refer to a "maximum property tax mill levy," implying that it is appropriate to insert a maximum numeric mill levy into the interlocal agreement language. However, given the extensive changes imposed by HB 124, that may no longer be wise.

The governing bodies of the city and county may also wish to consult with their respective city and county attorneys to determine whether renegotiation of the agreement creating the district is appropriate, given the changes resulting from HB 124.

Give me a call if you have additional questions.

-----Original Message-----

**From:** Strege, Karen  
**Sent:** Thursday, January 24, 2002 8:49 AM  
**To:** Scheier, James  
**Cc:** Cooper, Bob; Staffeldt, Darlene  
**Subject:** AG opinion and interlocal agreements

Jim

I have a question regarding the recently released AG's opinion number 49-106 and an interlocal agreement.

Ravalli County and Stevensville city have an interlocal agreement that creates a multijurisdictional service district to provide library services. The financing section of the contract states that, "The library will be supported by a library tax on all of the property within the District, consistent with MCA 7-11-1112 and MCA 22-1-304. However, the total mill levied may no exceed 5 mills for both County and Town residence."

I understand from the recent opinion that the "Big Bill" did not change the authority of library boards (we worked hard during the session to make this so) and that "the budget which the library board may require the commissioners to adopt is limited to the amount budgeted in the prior year as adjusted pursuant to section 15-10-420"

However, when a library is created by a contract, does the language of the contract, in this case limiting the library to 5 mills, bind the county to doing so or does the AG's opinion mean that the library should receive the dollar amount budgeted in the prior year plus any inflationary factor?

Help!

Thanks

Karen