

# ***U.S. State Library Laws about the Citizen's Role and Rights in Public Library Matters<sup>[1]</sup>***

## **美國州立圖書館法律中公共圖書館公民的角色和權益**

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### **【Abstract】**

Libraries in the U.S., especially public libraries are deeply rooted in local communities. What has made this strong relationship between libraries and their communities? The question can be answered in relation to different sources. In this article the author explores the role that plays in tying public libraries to their communities through 25 state laws. The article also examines how state laws ensure that citizens and their diverse voices can be equally heard in establishing and managing the local library. Finally the article outlines the local government, as defined by state law in the library affairs.

### **【摘要】**

為保障公民權利，增加社會的凝聚力，使社會穩定有序，需要建立一系列有效的法律規定。一般說來，能夠得到廣大公民的認同，符合實際需要，得以順利執行的法律，是有效的法律。本文以美國 25 個州的法律中對建立和管理公共圖書館的規定為實例，從以下幾個方

面探討有效法律在建立和管理圖書館方面的內容：對公民／納稅人在參與建立和管理公共圖書館中權力的規定；對政府責任的規定；保護反對意見的規定。作者試圖通過實例，探討用怎樣的法律規則才可能保障圖書館事業正常順利進行，並持續發展。

In the United States, state laws follow the spirit of the Constitution and concern for people's natural rights, but they also reflect states' conditions, histories, economies and customs. Therefore, regulation for the same issue is often different from state to state[2].

The extent of detail about libraries in each state law varies. Some states have regulated library issues at every level of government--county, city, town, and village. Other states are comparatively simpler. But besides the differences, there are some common points in all state library laws. For example, all state library laws have explicitly defined the public library as free for all people and provide for the management of the local libraries by the library board of trustees[3].

With the development of technology, especially the digitization and the Internet, additional regulations are created to meet the new needs of libraries and their users in the digital age. In addition, following the financial crisis in 2008, many states and local communities in the U.S. have been facing new challenges in securing resources to establish libraries, develop collections and even maintain regular library operations. Decision-makers have passed extra regulations for operating libraries. This article will not discuss these new decisions and regulations, but only focus on the basic perspectives in U.S. local laws that ensure the library closely connects with local communities, that ensure the role of citizens and the diversified voices can be equally heard in establishing and managing the local library; and that define the responsibility of local government in the respective process. These basic principles play as the footstone to warrant the relationship of libraries, especially the public libraries, with their communities.

## Role of Local Voters

### *In Establishing Local Public Library*

Among 51 states, 28 state library laws clearly provide that establishment of a public library or a reading room at the place that has none is either in the hands of local government within this framework or requires a petition from citizens that is approved by the locality's voters. For example, in the following states, each state law has defined different processes for establishing a local public library.

In Colorado [4]: "A municipal or county library may be established for a governmental unit either by the legislative body of said governmental unit on its own initiative, by adoption of a resolution or ordinance to that effect, or upon petition of one hundred registered electors residing in the proposed library's legal service area."

"If establishment of a county or municipal library or a library district is by petition of registered electors, the following procedures shall be followed:

(a) The petition shall set forth:

- (I) A request for the establishment of the library;
- (II) The name or names of the governmental unit or units establishing the library;
- (III) The name of the proposed library, and for a library district, the chosen name preceding the words "library district";
- (IV) A general description of the legal service area of the proposed public library with such certainty as to enable a property owner to determine whether or not such property owner's property is within the proposed library's legal service area; and
- (V) Specification of the mill levy to be imposed or other type and amount of funding and that the electors must approve any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors before the county or municipal library or library district can be established." (Colorado Revised Statutes, n.d.)

In Georgia: "By approval of voters of any county or municipality in a referendum election on the question of the establishment of a public library as provided in this paragraph. Upon a written petition containing 35 percent of the registered and qualified voters of a municipality or county being filed with the appropriate governing authority, the governing authority shall be required to hold and conduct a special referendum election for the purpose of submitting to the qualified voters of the municipality or county the question of whether or not a public library, as provided for in this part, shall be authorized. In the event a majority of the persons voting in the election vote in favor of the public library, then the governing authority of the municipality or county shall establish a public library as provided in this part. Otherwise, the governing authority shall have no authority to do so. Following the expiration of two years after any election

is held which results in disapproval of a public library, as provided in this part, another election on this question shall be held if another petition.” (Georgia Code, n.d.)

In Kentucky: “Any governmental unit may provide library service for its inhabitants according to any one of the following methods: (1)The legislative body on its own initiative may establish an independent library. (2)Upon receipt of a petition signed by a number of taxpayers equal to five percent (5%) of the number of votes cast for officers in the last general election of such governmental unit, the legislative body shall submit the question to a vote at the next general election by submitting the question to the county clerk not later than the second Tuesday in August preceding the general election. If a majority of those voting on the question vote in favor of the proposition, the legislative body shall forthwith establish a library....” (Kentucky Revised Statutes, Title XIV, 173.310, n.d.)

In Missouri: “Whenever voters equal to five percent of the total vote cast for governor at the last election in any city petition the mayor, common council or other proper governing body in writing asking that an annual tax be levied for the establishment and maintenance of a free public library in the city, and specify in their petition a rate of taxation on all the taxable property in the city the governing body shall direct that the question be submitted to the voters of the city at an election.”

“If, from returns of the election, the majority of all the votes cast on the question are in favor of the tax, the governing body shall enter of record a brief recital of the returns and that there has been established a public library and thereafter the free public library shall be established, and shall be a body corporate, and known as such.” (Missouri Revised Statutes, 182.140.1.3, n.d.)

In the cities where have 600,000 inhabitants or over, when 100 voters of the city, or the library board of any free public library heretofore established in the city, “petition in writing the mayor and council, or the mayor and board of aldermen, of the city asking that an annual

tax be levied for the establishment, maintenance, rehabilitation or extension of a free public library, or for the maintenance, rehabilitation or extension of a free public library theretofore established in the city, and specify in their petition a rate of taxation on all taxable property in the city, the mayor and council, or mayor and board of aldermen, shall submit the question at an election.” (Missouri Revised Statutes, 182.150. 1, n.d.)

The rule also clearly provides the forms of questions that should be submitted by the mayor and council, or mayor and board of aldermen in the city.

In Texas: “A [library] district may be created and a sales and use tax may be authorized only if the creation is confirmed and the tax is approved by a majority of the qualified voters of the district voting at an election held for that purpose.... Before a [library] district may be created, the commissioners court of the county in which the proposed district is located must receive a petition signed by at least five percent of the number of voters in the territory of the proposed district who voted in the most recent gubernatorial election. (Texas Statutes, Title 10: 326.021, n.d.)

[The petition must:] (1) include a name for the proposed district that describes the location of the district followed by the words ‘Library District’; (2) describe the boundaries of the proposed district by: (A) metes and bounds, (B) lot and block number, or (C) other sufficient legal description; (3) include the names of five persons who are willing and qualified to serve as the initial board of trustees of the district if elected at the election to create the district; and (4) include the rate of the sales and use tax that would be imposed by the board of the proposed district on approval of the district. . . If a petition is granted, the commissioners court shall order an election to confirm the district’s creation and to authorize the imposition of a sales and use tax.” (Texas Statutes, Title 10:326.023, n.d.)

In New York State: “Establishment of a public library.  
1. By a majority vote at any election, or at a meeting of

the electors duly held, any county, city, village, town, school district or other body authorized to levy and collect taxes; ...” “Any such municipality or district may acquire real or personal property for library purposes by gift, grant, devise, bequest or condemnation and may take, buy, sell, hold and transfer either real or personal property for public library purposes. Whenever twenty-five taxpayers shall so petition, the question of providing library facilities shall be voted on at the next election or meeting at which taxes may be voted...” (New York State Law, n.d.)

In the same chapter, *New York State Law* also provides a section for the tribal government of the Saint Regis Mohawk tribe, the Seneca Nations of Indians or the Tonawanda Seneca tribe and located on their respective reservations to establish a public library “to serve Indians residing on such reservations and any other persons designated by its board of trustees.... By a majority vote of the tribal government of an Indian reservation, or upon the request of the tribal government of an Indian reservation, an Indian library may be established, with or without branches, and may make application to the state or other source for money to equip and maintain such library or libraries or to provide a building or rooms for its uses.” “No more than one Indian library may be established on a reservation and such library shall serve all inhabitants of that reservation. No such library shall be established on any reservation that has fewer than three hundred permanent residents and one thousand acres of land.” (New York State Law, n.d.)

These excerpts illustrate that voters must approve establishment of a public library in a place whether by the local government or a petition initiates that matter. Although establishing a local library seems a good action, library supporters need to consider whether voters will approve of the library and the money it needs. The law has given the right to local citizens to decide it.

Many states have prescribed that when local citizens/voters present a petition to establish a library, they are required to specify the rate of taxation that would support it. To

be able to provide a rate, library proponents need to have information about local taxation that will be both adequate and acceptable to voters. Surrounding libraries and the local government should be the places for citizens to find such information.

### *In Managing Local Public Library*

Establishing a library is only the beginning of the project. Once established, the library must be managed within a framework of law. Almost all state laws have provisions regarding the management of the local public library. Citizens are involved in the management of local public libraries through the library board of trustees. Forty-two of fifty-one states have indicated the election and terms, responsibilities and remuneration of the board of trustees of the local public library. Twenty-three states spell out that the trustees of public library should be selected from local citizens or qualified voters. Thirty-one states forbid pay or compensation for trustees, but allow reimbursement for the expenses incurred while doing the approved work for the library. Some states permit compensation to trustees but set limits.

State laws provide for formation of the board of trustees of a local public library either by appointment by the local government or made by election. In almost every state the terms of the first trustees are on a staggered basis, so that each year a portion of the board is replaced. The chair of the board of trustees is usually elected after the board is established. Many states prohibit local officials from the board or limit membership to one official. The local official's power in the board is no more than a regular member. The number of board trustees varies in each state as well. The following examples of state laws illustrate characteristics of the library board of trustees.

In Idaho: “For the government of such library there shall be a board of five library trustees appointed by the mayor and council ... from among city residents ... Appointment to the board shall be made solely upon consideration of the ability of such appointees to serve

the interests of the people, without regard to sex, age, race, nationality, religion, disability or political affiliation. ... Members of the board shall serve without salary but may receive their actual and necessary budgeted expenses while engaged in authorized business of the library.” (Idaho Statutes, n.d.)

In Ohio: “the erection and equipment and the custody, control, and administration of free public libraries established by municipal corporations shall be vested in a board of library trustees composed of six members. In any municipal corporation whose elected officials are nominated as candidates of political parties, not more than three of the library trustees shall belong to the same political party. The trustees shall be appointed by the mayor, to serve without compensation, for a term of four years.” (Ohio Revised Codes, n.d.)

In Tennessee: “The legislative body of any county and/or the governing body of any incorporated city or town has the power to establish and maintain a free public library. ... Not more than one official each of the county and of the city governing bodies shall serve on this board. The members shall serve without salary, three for one year, two for two years, and two for three years, and their successors for terms of three years. Not more than five of the members shall be of the same sex.”

“In counties having a population of not less than 319,625 nor more than 319,725 according to the 1980 federal census or any subsequent federal census, where a county legislative body and/or the governing body of a city or town, in lieu of giving support to a free public library already established, or of contracting with another library for library service, or of contracting with other counties and/or cities for joint operation of a free public library, establishes an independent free library of its own, it shall appoint a board of not less than seven members nor more than nine members. Not more than one official each of the county and of the city governing bodies shall serve on this board. The members shall serve without salary ...

Not more than five of the members on a board of seven members, six of the members on a board of eight members, or seven of the members on a board of nine members shall be of the same sex.”

In addition, in such size of county, “a library board of not less than seven members nor more than nine members may be appointed by the county legislative body and city governing bodies which are parties to the agreement, the number appointed by each to be determined according to the ratio of population in each participating city and in the county outside the city or cities, based on the most recent federal census; provided, that each shall appoint at least one member.” (Tennessee Code Annotated, n.d.)

In Massachusetts: “A town which raises or appropriates money for the support of a free public library or free public library and reading room, owned by the town, shall, ... elect by ballot at a meeting a board of trustees consisting of any number of persons, male or female, divisible by three, ... When such board is first chosen, one third thereof shall be elected for one year, one third for two years and one third for three years, and thereafter one third shall be elected annually for a term of three years.”

“The board shall, from its own number, annually choose a chairman and secretary and, if the town so votes, a treasurer, who shall give a bond similar to that given by the town treasurer, in an amount and with sureties to the satisfaction of the selectmen. Until the town otherwise directs the town treasurer shall act as treasurer of the board of trustees.” (Massachusetts General Laws, n.d.)

In Michigan: “with the approval of the city council, appoint a board of 5 directors for the library and reading room, chosen from the citizens at large, with reference to their fitness for that office. Not more than 1 member of the city council shall be at any 1 time a member of the board.”

“If a city council decides, after the first appointments of the board of directors as provided in subsection, that

the purposes of the library and reading room would be better served by a different number of members on the appointed board of directors, the city council may by ordinance change the number of members to an odd number not less than 5 or more than 9.”

“The term of office for each member of the appointed board of directors may be changed by ordinance to a term of not less than 2 years or more than 5 years.”

The directors of the board “shall be nominated and elected on nonpartisan ballots. A candidate for city, village, or township library director shall file nonpartisan nominating petitions bearing the signatures of a number of registered and qualified electors of that city, village, or township as follows: (1) For a city, village, or township having a population of 9,999 or less, not less than 6 or more than 20 signatures. (2) For a city, village, or township having a population of 10,000 or more, not less than 40 or more than 100 signatures.” (Michigan Compiled Laws, n.d.)

In Missouri: When any city establishes and maintains a public library based on the provision of the Statutes, “the mayor or other proper official of the city, with the approval of the legislative branch of the city government, shall proceed to appoint a library board of nine trustees, chosen from the citizens at large, with reference to their fitness for the office. No member of the city government shall be a member of the board.” (Missouri Revised Statutes, 182.170, n.d.)

In Maine: Maine Library Commission consists of 15 members appointed by the Governor. “The library commission must be broadly representative of the State’s libraries and consist of a representative from public, school, academic, special, institutional and handicapped libraries, a trustee representative, one representative from each of the library districts as they are formed and 3 representatives from the State at large of whom one must be a representative of the disadvantaged.”

“The term of each appointed member shall be 5 years or until a successor is appointed and qualified. Of the

members first appointed, 3 shall be for one year, 3 for 2 years, 3 for 3 years, 3 for 4 years and 3 for 5 years. Subsequent appointment of each member shall be for the full term of 5 years. No members may serve more than 2 successive terms.”

“The commission shall meet at least 4 times a year. It shall elect a chair and vice-chair for terms of 2 years and frame and modify bylaws for its internal organization and operation.” (Maine Revised Statutes, Title 27: §111.1, n.d.)

The members of the library commission in Maine shall be compensated according to the provisions of Compensation of Board Members in Title 5: §12002-B of Maine Revised Statutes. It does not limit only to the library commission board members. This provision regulates the per diem and other specified daily or annual rate of compensation, the condition and prohibition of payment and compensation. For example, members can be compensated if “actual attendance at public hearings held by the board within the State to fulfill the duties and responsibilities of the board”; “actual attendance at meetings within the State of groups advisory to the board”; or “participation in official business of the board required by law or by rule of the board or a procedure which is necessary to fulfill the statutory responsibilities of the board”, but not including some defined prohibited activities in the provision, such as, reparation or review of materials for any meetings or hearings of any board.

In California: “The public library shall be managed by a board of library trustees, consisting of five members, to be appointed by the mayor, president of the board of trustees, or other executive head of the municipality, with the consent of the legislative body of the municipality.” “Men and women are equally eligible to appointment as trustees.” (California Library Laws, §18910, 18912, 2011)

“The legislative body of the municipality may, by ordinance, provide for the compensation of such trustees; provided that the respective compensation for such trustees shall not exceed fifty dollars per month.”

(California Library Laws, §18911, 2011) The law also regulates that the trustees shall hold office for three years, and the board at least should have one meeting every month.

In Nevada: “The board of county commissioners shall appoint five competent persons who are residents of the county to serve as county library trustees.” The term of each member is 4 years. “No trustee may be appointed to hold office for more than two consecutive 4-year terms.” “County library trustees serve without compensation, except that the board of county commissioners may provide for compensation in an amount of not more than \$40 per meeting, with a total of not more than \$80 per month, and may provide travel expenses and subsistence allowance for the members in the same amounts as are allowed for employees of the county library.” (Nevada Revised Statutes, 379.020.1-4, 2012)

In Florida Jackson County: “This board shall be composed of citizens of representative interest who are dedicated to the purpose of providing a feasible, adequate public library system for the county in cooperation with all their governmental entities, who will be in a position to furnish information, advice and counsel to the board of county commissioners in respect to the appropriate means and methods by which adequate public library facilities and services may be provided, all of which shall be done within the framework of the county government and a sound financial basis for the use and benefit of all residents of the county.”

“The library board shall consist of seven members who are registered voters. All members are to be appointed by the board of county commissioners and are to be chosen for their interest in public library service. Library board appointees shall serve for four years. Members of the library board will attend meetings regularly and unless such absence has first been authorized by a majority of the library board, members who are absent for three consecutive regular meetings or who

fail to attend two-thirds of the regular meetings in any 12-month periods shall be automatically dropped from membership.” (Jackson County, Fl. Code of Ordinances, n.d.)

In Texas: “A district library shall be governed by a board of five trustees. A person may not be elected to the board of trustees unless the person is a resident of the district and a registered voter of the county in which the district is located.” (Texas Statutes, Title 10: 326.042, n.d.)

Although the library board of trustees is composed mostly of local citizens, working with token or no compensation, it has clear power and responsibilities in the management of local libraries. In state laws, the responsibilities of the board of trustees can be briefly summarized as: managing and maintaining the local library; submitting to the legislative body of the local governmental an annual budget necessary to maintain and operate the library; establishing or adopting policies, by laws, rules, and regulations for its own guidance and the governance of the library; custody of all property of the library, including rooms or buildings constructed or leased; employing a library director and other staff; communicating with the government; and performing all other acts necessary for the orderly and efficient management of the local library. In regional libraries, the board has exclusive control and spending authority over the disbursement of the library funds as appropriated by its legislative body, including all assets of the public library fund, as set forth by local laws.

Because the board of trustees of a local library is appointed or elected from the local citizens and eligible voters, trustees devote to serve and represent the interest of local residents. This practice and provisions in local laws on the library board of trustees have been proved effective and successful in maintaining and sustaining local libraries.

## Mandating Government to Respond on Time

State laws require local government and state agencies to respond in a timely manner to petitions, elections, and proposals about local library matters. Timely response promotes effective government and stimulates citizens' participation.

In Arkansas: "In a city of the first class, on petition of five percent of the voters requesting the establishment of a public library, the city council or governing body of the municipality within thirty days after the filing of the petition shall call an election to be held" in accordance with according laws. (Arkansas Public Library Laws Annotated, 2009/2010)

In the same section, it spells out: "The election shall be advertised and conducted as special elections are required by law to be advertised and conducted. The ballots shall be marked 'FOR Public Library', 'AGAINST Public Library'".

In Illinois: A petition for dissolution of a public library board of trustees that failed to perform its duty in the municipality or township may be filed with the clerk of the circuit court of the county in which the public library is located. "The circuit judge shall set a date and time for a judicial hearing on the petition. At least 20 days prior to the hearing date, the clerk of the circuit court shall give notice of the time and place of the hearing." (Illinois Compiled Statutes, 75:5/2-7(b), n.d.)

In Indiana: After receiving petitions either proposing or opposing for establishing a local public library, the clerk of the circuit court in the county where the municipality, township, county, or part of a county where the public library that is to be located shall do the following:

"(A) If a name appears more than one time on a petition or on a remonstrance, the clerk shall strike any duplicates of the name until the name appears only one time on a petition or a remonstrance, or both, if the

individual signed both a petition and a remonstrance. (B) Strike the name from either the petition or the remonstrance of an individual. (C) Not more than fifteen days after a petition or remonstrance is filed, certify the number of signatures on the petition or remonstrance. (D) Establish a record of the clerk's certification in the clerk's office and file: with the legislative body of the municipality, township, or county." (Indiana Code, n.d.)

In Kentucky: "Within thirty days after the establishment of a library has been authorized" by any of the methods authorized by the law, "a library board shall be appointed. In cities the trustees shall be appointed by the mayor and in counties they shall be appointed by the county judge/executive. In each regional library district, the trustees shall be appointed by the joint action of the judges/executive of the respective counties or as may be agreed upon by contract." (Kentucky Revised Statutes, Title XIV, 173.340, n.d.)

In Ohio: "The board of trustees of any public library receiving money from a county's public library fund that desires to render public library service by means of branches, library stations, or traveling library service to the inhabitants ... may make application to the state library board. ... Upon receipt of said application by the state library board, the state librarian, or an employee of the state library board designated by such librarian, shall visit the library making the application for the purpose of determining whether or not the establishment of branches, library stations, or traveling library service as requested in said application will promote better library service in the district covered by said application. Upon the completion of such inspection, the librarian, or the person designated by the librarian to make such inspection, shall prepare a written report... Within thirty days after such report has been filed with the state library board, said board shall either approve or disapprove, in whole or in part, the establishment of branches, library stations, or traveling library service as requested in said application. The decision of the

state library board shall be final. Within ten days after final action has been taken by the state library board, upon such application, the librarian shall notify in writing the board of trustees of the public library making such application of the decision of the state library board.” (Ohio Revised Codes, n.d.)

In Wisconsin: It stipulates that any town desiring to establish a new public library or participate in a joint library under the provision in this law shall in addition to obtain the approval of the county library board, if one exists, and the county board of supervisors before final action is taken. “The county library board and the county board of supervisors shall render decisions within 90 days of the request being received. A town may appeal to the state superintendent a decision of the county library board or the county board of supervisors that disapproves the participation by the town in a joint library with a municipality located in another county. The state superintendent shall hold a public hearing on the appeal within 60 days after receiving notice of the appeal.” (Wisconsin Statutes & Annotations, 2009-10)

## Publicizing the Public Business

Information generally can be divided into two categories: public and private. The information of government falls into the former category and is open to the public. It can be freely accessed and used by citizens. Information about serving the citizen and establishing community facilities like libraries is public information. State laws require local governments to notify citizens about elections, meetings, and petitions about establishment or dissolution of libraries.

As previously mentioned, *Illinois Compiled Statutes* has given the right to electors in Illinois that they can file a petition for dissolution of the local board of trustees if the board has failed to perform its duties and functions under related laws. The law clearly points out that “At least 20 days prior to the hearing date, the clerk of the circuit court shall give notice of the time and place of

the hearing by publication in one or more daily or weekly newspapers having a general circulation within the municipality or township.” (Illinois Compiled Statutes, 75:5/2-7(b), n.d.) The hearing is a channel for people to express their opinions and concerns. The news about the hearing needs to be spread appropriately in order to reach local residents.

*Arizona Revised Statutes* point out that “The board of supervisors may establish at the county seat a county free library district for the county and for all cities and towns within the county as may elect to become a part of, or to participate in, the county free library district.” (Arizona Revised Statutes, Title 48: Ch.24:48-3901A, n.d.) But prior to taking action upon the establishment of the county free library district, “at least once each week for three successive weeks, the board shall publish in the county notice of such contemplated action, giving therein the date and time of the meeting at which the action is proposed to be taken.” (Arizona Revised Statutes, Title 48: Ch.24:48-3901B, n.d.) The similar regulation is also repeated in the section of the Statutes for an incorporated city or town to decide to become a part of or cease the participation in the county free library district.

The section of “Publication of notice of contemplated action” in *California Library Laws* has stated: “The boards of supervisors of the several counties may establish and maintain, within their respective counties, county free libraries pursuant to this chapter. At least once a week for two successive weeks prior to taking any action, the board of supervisors shall publish, in a newspaper designated by it and published in the county, notice of the contemplated action, giving the date of the meeting at which the action is proposed to be taken.” (California Library Laws, §19102, 2011)

*Indiana Code*: “Not later than ten days after a petition is filed under the law, the municipality, township, county, or part of a county shall give notice of the filing of the petition of establishing a local library in two newspapers of general circulation in the county, one of which is published in the municipality where the

library is to be located, if a newspaper is published in the municipality.” (Indiana Code, n.d.)

*Montana Code Annotated* provides: “The governing body of a city or county shall set a time of meeting at which it may by resolution establish a public library. The governing body shall give notice of the contemplated action in a newspaper of general circulation for 2 consecutive weeks giving the date and place of the meeting at which the contemplated action is proposed to be taken.” (Montana Code Annotated, 2009)

*New Jersey Statutes Annotated*: “No such library shall be established in any municipality unless assented to by a majority of the legal voters of the municipality, at an election, general or special, at which the question of the adoption of this article shall be submitted to vote by direction of the governing body.” “The municipal clerk shall cause public notice of such general or special election to be given by advertisement, signed by himself and set up in at least five public places in the municipality for at least ten days previous to the date of such election and published for the same period in two newspapers printed or circulating therein.” (New Jersey Statutes Annotated, n.d.)

*Nebraska Revised Statute*: “The registered voters of the incorporated and unincorporated areas of a county which do not have a public library may file an initiative petition with the county board requesting the establishment of a county library.” “If the county board determines that the petitions are in proper form and signed by the necessary number of registered voters, the county board shall notify the governing body and library board of each incorporated area within the county within ten days after such determination and shall publish in a newspaper of general circulation in the county that the registered voters of the unincorporated area of the county and of the incorporated areas which do not have a public library will be asked to vote on the issue at the next statewide general election and shall submit the question of whether to establish a county library to the voters”

as required in the law. (Nebraska Revised Statutes, 51-201.03., n.d.)

*Texas Statutes* state that if the petition for creation of a library district is granted, “the commissioners court shall give notice of the election by publishing a substantial copy of the election order once a week for two consecutive weeks in a newspaper with general circulation in the county in which the proposed district is located. The notice must be published not earlier than the 30th day or later than the 10th day before election day.” (Texas Statutes, Title 10: 326.027, n.d.)

Requiring government to publicize information regarding public libraries lays the foundation for encouraging citizens’ participation in public libraries. These laws protect the public’s right to know about issues closely related to them. Citizens can then exercise their rights to vote or speak about local libraries.

## Providing Equal Space for Different Opinions

By nature, even on the same issue, people have different comprehensions and opinions. There is no exception on forming libraries, as state laws should (and do) provide for debate on and opposition to the issue.

In the same section on establishing a local public library, the *Indiana Code* also provides the right of remonstrance: Not later than ten days after the publication of the petition for establish a public library, “a registered voter in the municipality, township, county, or part of a county where the public library is proposed to be established may file with the respective municipality, township, or county a remonstrance that: (1) is signed by registered voters in the municipality, township, county, or part of the county where the public library is proposed to be established; and (2) states that the registered voters who have signed the remonstrance are opposed to the establishment of the public library.”

“At the first meeting of the legislative body held at least ten days after the publication of the petition, the

legislative body shall compare the petition and any remonstrance. Whenever:

- (1) a remonstrance has not been filed; or
- (2) a greater number of voters have signed the petition than have signed the remonstrance against the establishment of the public library; the legislative body shall establish by written resolution the public library with a library district coextensive with the boundaries of the unit or part of a county, whichever is applicable.”

“When the number of registered voters who have signed a remonstrance against the establishment of the public library is equal to or greater than the number who have signed the petition in favor of the establishment of the public library, the legislative body shall dismiss the petition. Another petition to establish a public library may not be initiated until one year after the date the legislative body dismissed the latest unsuccessful petition.” (Indiana Code, n.d.)

*Nevada Revised Statutes*: “Whenever in any county a petition or petitions praying for the formation of a county library district and the establishment of a public library therein setting forth the boundaries of the proposed library district, certified by the district judge of any judicial district as being signed by 10 percent of the taxpayers or by taxpayers representing 10 percent of the taxable property in the proposed county library district,” the county needs to publish “a notice thereof in a newspaper of general circulation within the district once a week for a period of 2 weeks;” and “allow 30 days after the first publication of the notice during which all taxpayers of the district in which the district library is to be situated have the right to file protests with the county clerk.”

“If the aggregate of protests is less than 10 percent of the taxpayers voting in the last general election, the board of county commissioners shall order the creation of the county library district and the establishment of a public library therein and levy taxes in support and

continued maintenance of the library” in accordance with the respective subsection in the *Statutes*. “If the aggregate of protests is more than 10 percent of the taxpayers voting in the last general election, the board of county commissioners shall proceed no further with reference to the establishment of a county library district without submitting the question to the voters at a primary or general election.” (Nevada Revised Statutes, 379.021, 2012)

*North Dakota Century Code*: “The governing body of any city or county upon petition of not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the qualified electors thereof voting on the question shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service.” Parallel with the procedure of forming public library service, the *Code* also provides: “Library service may be discontinued within any city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.” (North Dakota Century Code, 2010)

*Arizona Revised Statutes*: “The governing body of any incorporated city or town in the county may notify the board of supervisors that the city or town desires to become a part of the county free library district...”, also “The governing body of an incorporated city or town in the county may at any time notify the board that the city or town no longer desires to be a part of the county free library district.” (Arizona Revised Statutes, Title: 11:Ch.7:1.11-902C, n.d.)

*Illinois Compiled Statutes*: “Upon the adoption of an ordinance by the governing body of an incorporated town, village, or township or when 100 legal voters of any incorporated town, village or township present a petition to the clerk thereof asking for the establishment

and maintenance of a public library in such incorporated town, village or township, the clerk shall certify the question of whether to establish and maintain a public library to the proper election authorities...” (Illinois Compiled Statutes, 75:5/2-2 · n.d.)

Meanwhile, “When 25% but not less than 100 of the voters of the city, village, or incorporated town present a petition to the clerk thereof asking for the disestablishment of the public library, the clerk shall certify the question of whether or not the public library shall be disestablished to the proper election authorities who shall submit the question at a regular election in accordance with the general election law.” “If a majority of the votes cast upon the proposition are in favor thereof, the library shall be disestablished. If less than a majority of the votes are in favor of the proposition, the disestablishment shall not occur.” (Illinois Compiled Statutes, 75:5/2-6 · n.d.)

There is a section for discontinuance of the local public library services in *Minnesota Statutes*: “If public library service is established under the provisions” of the law, “it may be discontinued only after a majority of the votes cast on the question are in the affirmative on a question on a ballot in a general election. The question of discontinuance of public library service shall be placed on the ballot at the next general election upon the petition of eligible voters, ..., of the city or county, in a number not less than five percent of the number of persons who voted at the last general election in the city or county.” (Minnesota Statutes, n.d.)

To librarians and library advocates, forming a local library or joining a library district seem very obvious and simple issues. Nevertheless local government still needs to listen to and collect both favorable and unfavorable opinions, and where law requires to put the decision in the hands of local voters. The provisions in local laws have ensured the right and created channels for citizens to express different opinions on public libraries.

The aforementioned perspectives in establishing and managing local libraries clearly defined in different states’ laws have formed the essential principle for public libraries and its relationship with local communities. A local library is managed by the public voted board. Establishing or disestablishing a public library has to undergo the same process: petition, public hearing and vote. In recent years, with the shrinking local budget, libraries are closed in many communities. To close a library, the local condition has to be examined first; the voices of local voters/citizens on the issue should have channels to express, the local government must listen to the local voices, assist the procedure and make the decision cautiously based on the local vote. Whether closing the library could solve the local budget problem needs other articles to argue.

Nowadays, public libraries and their services continue to develop and transform in an increasingly global and digital information environment. Reviewing the provisions in U.S. state laws related to libraries may enhance the understanding and connection between the library and users, local citizens and communities. In the more than 200-year development, the local public library and its community have become inseparable in the U.S. Public libraries are one of mass-supported cultural and educational places deeply rooted in local communities. Citizens, older or younger, coming to the local library has become a tradition passed on from generation to generation. The role of local laws for securing the rights and responsibilities of citizens and the role of government in the development of local public libraries cannot be underestimated in the issue. State laws play a role in sustaining libraries via citizens’ active involvement and long lasting support from local communities.

## Note

[1] The article is based on the author’s Chinese language article entitled “采他山之石 攻己之玉——談美國關於圖書館的地方法律” in the Proceedings of the Library Society of China 2011 Annual Program (中國圖書館

學會年會論文集(2011年卷), ISBN: 9787501346769), National Library Press, 2011. pp. 91-99. This article is English translation with revisions.

[2] In accurate definition, in U.S. 51 states, 46 are entitled states, and 4 commonwealths, plus the District of Columbia. In the article, it will be generally called state.

[3] Names may vary state from state.

[4] All cited state laws and statutes in this article can be found online by the title.

## References

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Arizona Revised Statutes, Title: 11:Ch.7:1:11-902C (n.d.)  
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