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**LAW LIBRARY  
ARIZONA ATTORNEY GENERAL**

March 14, 1986

The Honorable Bob Denny  
Arizona State Representative  
State Capitol - House Wing  
Phoenix, Arizona 85007

Re: I86-030 (R86-011)

Dear Representative Denny:

You have asked whether A.R.S. § 11-912 mandates counties to levy a tax for libraries, and if so, whether failure to levy the tax constitutes a violation of law. We conclude that counties that choose to establish a county free library must levy a tax for its maintenance and support. A.R.S. § 11-912(A) provides:

The board of supervisors, after a county free library is established, shall annually levy in the same manner and at the same time as other county primary property taxes are levied, and in addition to all other taxes, a mill tax sufficient to insure the payment of salaries, maintenance and upkeep and other necessary expenses of the county free library system. The tax shall be levied and collected upon all property in the county outside incorporated cities and towns maintaining free public libraries, and upon all property within incorporated cities and towns which have elected to become a part of the county free library system as provided in this article. The fund raised by the tax levy shall be used for the purpose of purchasing periodicals, books, records and other supplies, and for purchasing property for establishing and maintaining the county free library.

(Emphasis added.)

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The word "shall," such as appears in the statute set out above, is ordinarily construed to mean "mandatory", although the word may also indicate desirability, preference or permission. Arizona Downs v. Arizona Horseman's Foundation, 130 Ariz. 550, 637 P.2d, 1053 (1981). In this case, we are of the opinion that the Legislature intended for a mandatory construction to apply, because in authorizing the board of supervisors to establish county free libraries, the Legislature also specifically provided the means for the maintenance and operation of such libraries by establishing the mill tax.

After a county free library has been established, it may be dissolved by the board of supervisors. A.R.S. § 11-916. If the library is dissolved, then the levy of the tax is no longer required. Accordingly, we conclude that if a county free library is established, then the tax must be levied and failure to do so is a violation of A.R.S. § 11-912.

Sincerely,



BOB CORBIN  
Attorney General

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