August 25, 1995

OPINION NO. 95-018

The Honorable James A. Philomena
Mahoning County Prosecuting Attorney
120 Market Street
Youngstown, Ohio 44503-1726

Dear Prosecutor Philomena:

You have requested an opinion concerning a county employee's entitlement to prior service credit for vacation leave purposes. Certain county employees have asked to receive credit for prior service with the Public Library of Youngstown and Mahoning County. You specifically ask whether a county employee "is entitled to prior service credit for vacation benefits pursuant to Ohio Revised Code § 325.19 and § 9.44 for time employed with the Public Library of Youngstown and Mahoning County."

According to your opinion request, "[t]he library has represented that it is a not for profit corporation which enters a contract with the [c]ounty to provide library services to the [c]ounty. Employees of the [library] do not have civil service status, but they are covered under [the Public Employees Retirement System]." One of your assistants has indicated that the library also contracts to provide public library services to other political subdivisions. The precise manner in which this library was established remains unclear, and may bear on the answer to your question. An opinion of the Attorney General is not, however, an appropriate means for resolving factual matters concerning the creation and operation of this particular library.[1] I will assume, therefore, that the civil service status and Public Employees Retirement System status of the employees of the Public Library of Youngstown and Mahoning County, as described in your letter, have been properly determined in accordance with the applicable statutory schemes. This opinion will also assume that the library about which you ask was not created pursuant to any of the provisions in R.C. Chapter 3375 concerning the establishment and operation of public library entities. *See generally* 1993 Op. Att'y Gen. No. 93-031.

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[1] *See* 1991 Op. Att'y Gen. No. 91-016 at 2-82 n. 2 ("[t]he opinion-rendering function of the Attorney General is not an appropriate forum for making findings of fact"); 1983 Op. Att'y Gen. No. 83-057 at 2-232 ("[t]his office is not equipped to serve as a fact-finding body; that function may be served by [the office of the county prosecuting attorney] or, ultimately, by the judiciary").

Vacation Leave of County Employees

In the absence of an applicable collective bargaining agreement, the vacation leave of county employees is governed by R.C. 325.19,[2] which states in pertinent part:

> (A)(1) The granting of vacation leave under division (A)(1) of this section is subject to divisions (A)(2) and (3) of this section.[3] Each full-time employee in the several offices and departments of the county service, including full-time hourly rate employees, after *service* of one year *with the county or any political subdivision of the state*, shall have earned and will be due upon the attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods. A full-time county employee with eight or more years of *service with the county or any political subdivision of the state* shall have earned and is entitled to one hundred twenty hours of vacation leave with full pay. A full-time county employee with fifteen or more years of *service with the county or any political subdivision of the state* shall have earned and is entitled to one hundred sixty hours of vacation leave with full pay. A full-time county employee with twenty-five years of *service with the county or any political subdivision of the state* shall have earned and is entitled to two hundred hours of vacation leave with full pay.... (Footnote and emphasis added.)

Pursuant to R.C. 325.19(A)(1), a full-time county employee is entitled to receive a certain number of hours of vacation leave each year, depending upon the number of years of service the employee has "with the county or any political subdivision of the state." *See generally* 1984 Op. Att'y Gen. No. 84-055 (finding a township, a municipality, and a municipal, joint vocational, or local school district to be "political subdivisions" for purposes of R.C. 325.19).

Additional service credit for vacation leave purposes is granted by R.C. 9.44,[4] which states

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[2] R.C. 325.19(F) permits a county appointing authority or other body, upon notification to the board of county commissioners, to establish alternative vacation leave and holiday schedules for its employees, with certain limitations.

[3] R.C. 325.19(A)(2) and (3) provide for adjustments in vacation leave granted for full-time county employees who work other than a standard forty hour week or who are in active pay status for less than eighty hours in a biweekly pay period.

[4] The prior service credit provisions of R.C. 9.44 are, however, subject to change pursuant to a collective bargaining agreement entered into pursuant to R.C. Chapter 4117. *See State ex rel. Clark v. Greater Cleveland Regional Transit Authority*, 48 Ohio St. 3d 19, 21, 548 N.E.2d 940, 942 (1990) ("R.C. 9.44 imposes a mandatory duty on any political subdivision of the state of Ohio to credit employees with prior service vacation credit, absent a collective bargaining agreement"). I will

in pertinent part:

> (A) Except as otherwise provided in this section, a person employed, other than as an elective officer, by *the state or any political subdivision of the state*, earning vacation credits currently, is entitled to have his prior service with any of these employers counted as service with the state or any political subdivision of the state, for the purpose of computing the amount of his vacation leave. The anniversary date of his employment for the purpose of computing the amount of his vacation leave, unless deferred pursuant to the appropriate law, ordinance, or regulation, is the anniversary date of such prior service. (Emphasis added.)

Since a county is a political subdivision, R.C. 9.44(A) entitles a county employee who is earning vacation credits currently to receive credit for any prior service with the state or a political subdivision, except as otherwise provided in R.C. 9.44.[5] *See generally* 1988 Op. Att'y Gen. No. 88-089 (syllabus, paragraph three) (discussing prior service credit for county employees under R.C. 325.19 and R.C. 9.44).

Pursuant to R.C. 325.19(A) and R.C. 9.44(A), a full-time county employee who has been employed by the county since before July 5, 1987, is entitled to receive credit for prior service with the state, the county, or any political subdivision of the state for purposes of calculating the amount of vacation leave to which he is entitled under R.C. 325.19. Thus, a county employee would be entitled to receive service credit for the period during which he was employed by the library about which you ask only if such library employment constituted service with the state, the county, or a political subdivision of the state.

Service with the State, a County, or a Political Subdivision for Purposes of R.C. 9.44 and R.C. 325.19

The meanings of prior service with "the state or any political subdivision of the state," as

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assume for purposes of this opinion, however, that the county employees who are seeking credit for prior service with the library you describe are not covered by a collective bargaining agreement that alters the service credit provisions of R.C. 9.44 or R.C. 325.19.

[5] R.C. 9.44(B) makes separate provision for persons initially employed on or after July 5, 1987, by a county, township, or municipal corporation. Your letter states, however, that the county employees about whom you ask were employed by the county prior to July 5, 1987. The provisions of R.C. 9.44(B), therefore, have no application to the employees you describe. Separate provision is made in R.C. 9.44(C) for persons who have retired in accordance with any retirement plan offered by the state and who return to employment with the state or any political subdivision of the state on or after June 24, 1987. Again, the employees about whom you ask do not come within the provisions of R.C. 9.44(C). Accordingly, this opinion will address only the additional service credit permitted by R.C. 9.44(A).

used in R.C. 9.44, and "service with the county or any political subdivision of the state," as used in R.C. 325.19, are not defined by statute. In examining a similar question, 1988 Op. Att'y Gen. No. 88-095 stated at 2-464:

> [W]hile the definition of civil service in R.C. 124.01(A) is not directly applicable to R.C. 325.19 and R.C. 9.44, it is consistent with the overall statutory scheme to use R.C. 124.01(A) for guidance in interpreting these statutes.... [I]f the county law librarian was in the civil service as defined by R.C. 124.01(A), it follows that she was also "in the service of" the state, county, or a political subdivision and such time may be credited as prior service under R.C. 9.44 and R.C. 325.19. (Citation omitted.)

Thus, it is common to examine the application of R.C. Chapter 124 to a particular entity to determine whether service with that entity constitutes prior service for purposes of R.C. 9.44 and R.C. 325.19.

In this regard, I note that R.C. Chapter 124 establishes the civil service scheme governing "all offices and positions of trust or *employment* in the service of the *state and the counties*, cities, city health districts, general health districts, and city school districts thereof." R.C. 124.01(A) (emphasis added). Pursuant to R.C. 124.11, "[t]he civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts thereof shall be divided into the unclassified service and the classified service." *See* 1989 Op. Att'y Gen. No. 89-063 at 2-280 ("employment positions which are not in the service of the state or county or one of the other named political subdivisions are not included in the civil service"). Thus, an examination of whether a position of employment with the library you describe is in the civil service of the state or a county for purposes of R.C. Chapter 124 would indicate whether such employment is service with the state or county for purposes of R.C. 9.44 and R.C. 325.19.[6] Because not all political subdivisions within the state are included in the civil service, however, a determination of whether employment by the library you describe is service with a political subdivision for purposes of R.C. 9.44 and R.C. 325.19 requires a more extensive analysis than simply determining whether such employment is service with one of the governmental entities subject to R.C. Chapter 124.

A. Service with a County

Op. No. 88-095 considered whether a county employee was entitled to receive credit for vacation leave purposes pursuant to R.C. 9.44 and R.C. 325.19 for prior service as a county law librarian. Op. No. 88-095 began by noting that a county law library association may be formed as a private association or organized as a nonprofit corporation pursuant to R.C. 1713.28, and stated: "Although the law library association which operates the library and appoints the librarian is a private entity, the operation of the law library itself has long been recognized as a public function

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[6] According to information provided by your staff, the Department of Administrative Services has determined that the staff of the library about which you ask are not subject to the provisions of R.C. Chapter 124.

which constitutionally may be supported by public funds." *Id*. at 2-464 to 2-465 (footnote omitted).

The opinion then examined the provisions of R.C. Chapter 124 to determine whether service with a county law library constituted service with the state, county, or other political subdivision. As noted in the opinion, R.C. 124.11(A)(7)(b) expressly includes in the unclassified civil service, "[t]he library staff of any library in the state supported wholly or in part at public expense." In determining that a county law library is "supported wholly or in part at public expense," as that term is used in R.C. 124.11(A)(7)(b), the opinion relied upon the statutory scheme set forth in R.C. 3375.48-.56, pursuant to which significant support for county law libraries is provided either by the county itself, *e.g.*, R.C. 3375.48 (compensation of a county law librarian and assistants from the county treasury), R.C. 3375.49 (county commissioners must provide the county library with suitable rooms, sufficient and suitable bookcases, heat, and light, all at county expense), or from fines collected in various courts, R.C. 3375.50-.53. Op. No. 88-095 then stated that the phrase "any library," as used in R.C. 124.11(A)(7)(b), not being restricted in any way by other language, must include "every" or "all" libraries, including a county law library. The opinion thus concluded that a county law librarian is a member of the unclassified civil service pursuant to R.C. 124.11(A)(7)(b), and that service as a county law librarian qualifies for prior service credit pursuant to R.C. 325.19. *See also* 1991 Op. Att'y Gen. No. 91-061 (finding the position of assistant county law librarian, provided for in R.C. 3375.48, to be in the civil service by virtue of R.C. 124.11(A)(7)(b), even though the county law library association is a private entity).

Applying the analysis of Op. No. 88-095 to the library you describe, I note that R.C. 5705.32(B) provides for the distribution of a county's share of the county library and local government support fund to each board of public library trustees that has qualified under R.C. 5705.28(D). R.C. 5705.28(D) states in part:

> (D) The board of trustees of any public library desiring to participate in the distribution of the county library and local government support fund *shall adopt appropriate rules extending the benefits of the library service of such library to all the inhabitants of the county on equal terms, unless such library service is by law available to all such inhabitants*, and shall certify a copy of such rules to the taxing authority with its estimate of contemplated revenue and expenditures. Where such rules have been so certified or where the adoption of such rules is not required, the taxing authority shall include in its budget of receipts such amounts as are specified by such board as contemplated revenue from the county library and local government support fund, and in its budget of expenditures the full amounts requested therefrom by such board. No library association, incorporated or unincorporated, is entitled to participate in the proceeds of the county library and local government support fund or other public funds unless such association was organized and operating prior to January 1, 1968. (Emphasis added.)

Those libraries that participate in the distribution of the county's share of the county library and local government support fund must, therefore, provide library service to all county inhabitants on equal terms. *See generally* 1962 Op. Att'y Gen. No. 2956, p. 292 (syllabus, paragraph one) ("[a] non-

profit corporation which has as its purpose the operation of a library and has adopted its articles of incorporation in accordance with [R.C. Chapter 1702 and R.C. 1713.28] and which has qualified as a _public library_ in accordance with [R.C. 5705.28] is entitled to share in the distribution of classified property taxes of a county made pursuant to [R.C. 5705.32]"). Thus, a library association, even though established as a nonprofit corporation, may qualify for public funds if it complies with the terms of R.C. 5705.28(D).

Unaddressed by Op. No. 88-095 and Op. No. 91-061, however, is the fact that in order for a position to be in the unclassified civil service pursuant to R.C. 124.11(A)(7)(b), it must be not only a position described in R.C. 124.11(A)(7)(b), but *also* a position that is in the service of the state, or a county, city, civil service township, city health district, general health district, or city school district.[7] R.C. 124.11. *See* Op. No. 89-063. It is this element that is critical in analyzing the nature of employment by the library about which you ask.

According to information provided by your office, the library you describe was formed as a nonprofit corporation and provides its services to the county and various other political subdivisions pursuant to contracts with those subdivisions. The fact that this library enters into contracts with the county and other political subdivisions it serves indicates that it is not part of, but exists as an entity separate from, the county and the political subdivisions with which it contracts. *See* 1979 Op. Att'y Gen. No. 79-036 (syllabus, paragraph one) (R.C. 9.44 does not entitle a state employee to receive prior service credit for vacation leave purposes for time spent as an employee of a private non-profit corporation that, pursuant to contract, provided mental health and mental retardation services and facilities to a county mental health and mental retardation board); *see generally In re State Exchange Bank*, 26 Ohio App. 142, 159 N.E. 839 (Williams County 1927) (contract requires at least two parties). Thus, whether or not the library you describe receives public funds under R.C. 5705.32(B), it exists as an entity separate from the county with which it contracts.[8] Employment by the library is not, therefore, service with the county for purposes of R.C. 9.44 or R.C. 325.19.

B. Service with a "Political Subdivision"

I now turn to the question of whether employment by the library about which you ask is service with a "political subdivision" for which a county employee may receive prior service credit under R.C. 9.44 or R.C. 325.19 for vacation leave purposes. *See generally* 1992 Op. Att'y Gen. No. 92-079 (a regional transit authority created under R.C. 306.32 is a political subdivision for purposes of R.C. 325.19; neither a regional council of governments, created in accordance with R.C. Chapter

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[7] The statutory scheme governing county law libraries, however, strongly suggests that county law library employees are in the service of the county for purposes of R.C. Chapter 124.

[8] Because the positions described in R.C. 124.11(A)(7)(b) must be positions of trust or employment in the service of the state, county, or other governmental entity included in the civil service, as defined in R.C. 124.01(A), the positions about which you ask also are not included in the civil service scheme governed by R.C. Chapter 124.

167, nor a multicounty-municipal correctional center, created under R.C. 307.93, is a political subdivision for purposes of R.C. 325.19).

In Op. No. 93-031, my predecessor found the library entities created in accordance with R.C. Chapter 3375 to be political subdivisions for purposes of R.C. Chapter 167. In reaching this conclusion, Op. No 93-031 discussed the nature of such library entities generally, as follows:

> Within R.C. Chapter 3375, the General Assembly has provided for the creation and operation of various types of public libraries throughout the state....
> Public libraries are created in a number of ways. R.C. 3375.06 provides that in certain counties, "*a county free public library* shall be established for the use of all of the inhabitants of the county" (emphasis added). Similar provision is made in R.C. 3375.10 for the establishment in certain townships of "a free public library." R.C. 3375.15 refers to a "free public library" that has been established by a certain type of school district, as does R.C. 3375.12, referring to "free public libraries established by municipal corporations." R.C. 3375.22 and R.C. 3375.30, however, use different terminology, speaking instead of "the free public library" of a "county library *district*" under the former, and referring to the "regional *district* free public library" in the latter....
> An element common to these library entities is that each is governed by a board of trustees appointed under R.C. 3375.06 (county free public library), R.C. 3375.10 (township free public library), R.C. 3375.12 (municipal free public library), R.C. 3375.15 (school district free public library), R.C. 3375.22 (county library district), or R.C. 3375.30 (regional library district). Pursuant to R.C. 3375.33, these boards of library trustees are "bodies politic and corporate, and as such are capable of suing and being sued, contracting, acquiring, holding, possessing, and disposing of real and personal property, and of exercising such other powers and privileges as are conferred upon them by law."

Id. at 2-156 to 2-157 (footnote omitted).

Op. No. 93-031 then set forth the following test: "in order to qualify as a political subdivision for purposes of R.C. Chapter 167, an entity must be a *public agency* that is authorized to exercise some *governmental function*, and it must exercise that function within a *limited geographical area*." *Id*. at 2-158 (emphasis added). In applying this test to the library entities established in accordance with R.C. Chapter 3375, Op. No. 93-031 found the services performed by these entities to be governmental activities. *See Brown v. State ex rel. Merland*, 120 Ohio St. 297, 166 N.E. 214 (1929). Op. No. 93-031 at 2-160 also found that, based upon the statutory scheme governing the establishment of such library entities, "such entities generally operate within a geographical area smaller than that of the entire state." As to the final element of the test, Op. No. 93-031 relied upon the library entities' creation by statute as bodies politic and corporate with powers sufficiently broad to exist as entities apart from the subdivisions in which they are located to conclude that they were public in nature.

Because the library entities discussed in Op. No. 93-031 were all established in accordance with one of the statutory schemes set forth in R.C. Chapter 3375, Op. No. 93-031 did not separately address their character as "public agencies," an element essential to their existence as "political subdivisions." In this regard, I find it useful to examine the definition of "political subdivision" set forth in *Black's Law Dictionary* 1159 (6th ed. 1990), which states: "*A division of the state made by proper authorities thereof*, acting within their constitutional powers, for purpose of carrying out a portion of those functions of state which by long usage and inherent necessities of government have always been regarded as public." (Emphasis added.) This definition clarifies that inherent in the nature of a political subdivision is its creation as a division of the state by proper authorities of the state, pursuant to the constitution or by the General Assembly. *See generally* 1992 Op. Att'y Gen. No. 92-028 at 2-106 (with respect to boards of trustees of libraries established under R.C. 3375.06 (county free public library), R.C. 3375.10 (township free public library), R.C. 3375.12 (municipal free public library), R.C. 3375.15 (school district public library), R.C. 3375.22 (county library district), and R.C. 3375.30 (regional library district), stated: "Boards of library trustees are independent *agencies of government* created pursuant to statute" (emphasis added)).

In contrast to the library entities discussed in Op. No. 93-031 and Op. No. 92-028, all of which were established in accordance with one of the statutory schemes prescribed by R.C. Chapter 3375, the library about which you ask does not appear to have been established pursuant to any of such schemes. Further, except to the extent that it contracts with various political subdivisions that are authorized by R.C. 3375.42[9] to contract for library services, the library you describe is not a type of library governed by R.C. Chapter 3375.

Rather, R.C. 1702.04, which provides for the creation of nonprofit corporations, states in pertinent part: "Any person, singly or jointly with others, and without regard to residence, domicile, or state of incorporation, may form a corporation by signing and filing with the secretary of state articles of incorporation." In addition, R.C. 1702.08 provides for the incorporation of an

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[9] R.C. 3375.42 states:

> The board of county commissioners of any county, the board of education of any school district, the legislative authority of any municipal corporation, or the board of township trustees of any township may contract with the board of library trustees of any public library, or with any private corporation or *library association maintaining a free public library prior to September 4, 1947*, situated within or without the taxing district, to furnish library service to all the inhabitants of said taxing district, notwithstanding the fact that such library is receiving proceeds from the county library and local government support fund, and may levy a tax, or make an appropriation from its general fund or from federal funds, to be expended by such library in providing library service in said taxing district for any of the purposes specified in [R.C. 3375.40]. The taxing authority may require an annual report in writing from such board of library trustees, private corporation, or *library association*. (Emphasis added.)

unincorporated society or association that has been formed for any of the purposes permitted by R.C. 1702.01-.58. Thus, a nonprofit corporation may be created by any person or persons or by an unincorporated society or association. *See* R.C. 1702.01(J) (for purposes of R.C. Chapter 1702, "person" includes, but is not limited to, "a nonprofit corporation, a corporation for profit, a partnership, an unincorporated society or association, and two or more persons having a joint or common interest"); *see also* R.C. 1.59(C) (defining "person," as used in any statute, unless otherwise defined, as including "an individual, corporation, business trust, estate, trust, partnership, and association"). In neither instance, however, is such a corporation created *as a division of the state by authority of the state*.[10] Because the library you describe was created as a nonprofit corporation in accordance with either R.C. Chapter 1702 or R.C. Chapter 1713 (educational corporations), it was not created as a division of the state by authority of the state. I conclude, therefore, that an entity that has been incorporated as a nonprofit library association pursuant to R.C. Chapter 1702 or R.C. Chapter 1713 and is not a library entity under R.C. Chapter 3375, not having been created as a division of the state by authority of the state, is not a "political subdivision" for purposes of R.C. 325.19 and R.C. 9.44.[11]

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[10] Separate provision is made in R.C. 1713.28 for associations incorporated for various educational and other purposes. R.C. 1713.28 states in pertinent part:

> An association incorporated for the purpose of receiving gifts, devises, or trust funds to erect, establish, or maintain ... *a law or other library* ... may prescribe in its articles of incorporation the tenure of office of the trustees or directors, the mode of appointing or electing successors, the administration and management of the property, trust, and other funds of the corporation, and such other organic rules as are deemed expedient or acceptable to donors, which shall be the permanent organic law of the corporation.
> By certificate duly acknowledged by the trustees or directors and filed in the office of the secretary of state, such association may add to the original objects and purposes thereof any of the objects and purposes mentioned in this section and not provided for by the articles of incorporation. (Emphasis added.)

R.C. 1713.29-.31 impose various obligations and limitations upon the officers of a corporation referred to in R.C. 1713.28. Thus, the library about which you ask may also be governed by the provisions of R.C. 1713.28-.31. *See generally* R.C. 1702.03 ("when there is a special provision in the Revised Code for the formation thereunder of a designated class of [nonprofit] corporations, a [nonprofit] corporation of such class shall be formed thereunder"); 1962 Op. Att'y Gen. No. 2956, p. 292.

[11] A similar analysis was used in 1987 Op. Att'y Gen. No. 87-024, which determined that a community improvement corporation is not a "political subdivision" for purposes of R.C. Chapter 2744, governing political subdivision tort liability. *See generally* R.C. 2744.01(F) (defining "political subdivision," in part, as meaning, "a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state"). Op. No. 87-024 set forth the following analysis at 2-163:

C. Service with the State

As a final matter, it is necessary to ascertain whether employment by the library you describe is service with the state. It is useful to return to an examination of whether a position of employment with the library you describe is in the "service of the state" for purposes of R.C. Chapter 124. As determined by *In re Ford*, 3 Ohio App. 3d 416, 420, 446 N.E.2d 214, 218 (Franklin County 1982), in order for a position to be in the "service of the state" for purposes of R.C. Chapter 124.01, such employment must be by a state agency and compensation for that position must be paid in whole or in part by state funds. The court concluded that the State Teachers Retirement Board qualifies as a state agency because it is "a public agency created by statute to exercise a certain portion of the sovereignty of the state as authorized by statute.... Clearly the State Teachers Retirement Board exercises its powers throughout the state." 3 Ohio App. 3d at 418, 496 N.E.2d at 216. It is clear from the discussion above that the library you describe has not been established by statute nor authorized by statute to exercise a portion of the sovereignty of the state. It is not, therefore, a state agency, and employment with the library is not service with the state for purposes of R.C. 9.44 and R.C. 325.19.

Because service with the library you describe is not service with the state, county, or a political subdivision, neither R.C. 325.19 nor R.C. 9.44 entitles a county employee to receive credit for vacation leave purposes for time spent as an employee of that entity.

Conclusion

Based on the foregoing, it is my opinion, and you are hereby advised that:

1.Employment by a nonprofit library association that provides library services to a county pursuant to contract is not service with that county for purposes of R.C. 9.44 or R.C. 325.19.

2.Employment by a nonprofit library association that has not been created as a division of

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[The community improvement corporation] is a nonprofit corporation created pursuant to R.C. Chapters 1702. and 1724. Such a corporation serves the public purpose of advancing, encouraging, and promoting industrial, economic, commercial, and civic development. *See* R.C. 1724.01. *See also* Ohio Const. art. VIII, § 13. It is required to submit an annual report and audit to the Director of Development. *See* R.C. 1724.05. It thus "possesses certain characteristics that are suggestive of a public status." 1979 Op. Att'y Gen. No. 79-061 at 2-204. Nonetheless, *the fact that a community improvement corporation is organized as a private nonprofit corporation compels the conclusion that it is not, in itself , a public body* and that it is not a "political subdivision" for purposes of R.C. Chapter 2744. (Emphasis added.)

the state by authority of the state is not service with a "political subdivision" for purposes of R.C. 9.44 and R.C. 325.19.

3.Employment by a nonprofit library association that has not been created by statute to exercise a portion of the sovereignty of the state as authorized by statute is not service with the state for purposes of R.C. 9.44.

Respectfully,

BETTY D. MONTGOMERY
Attorney General

August 25, 1995

The Honorable James A. Philomena
Mahoning County Prosecuting Attorney
120 Market Street
Youngstown, Ohio 44503-1726

SYLLABUS: 95-018

1. Employment by a nonprofit library association that provides library services to a county pursuant to contract is not service with that county for purposes of R.C. 9.44 or R.C. 325.19.

2. Employment by a nonprofit library association that has not been created as a division of the state by authority of the state is not service with a "political subdivision" for purposes of R.C. 9.44 and R.C. 325.19.

3. Employment by a nonprofit library association that has not been created by statute to exercise a portion of the sovereignty of the state as authorized by statute is not service with the state for purposes of R.C. 9.44.