

1504

THE BOARDS OF LIBRARY TRUSTEES, ARE AUTHORIZED TO CONTRACT WITH ONE OF SUCH BOARDS OF LIBRARY TRUSTEES FOR THE JOINT PUCHASING OF SUPPLIES, EQUIPMENT, ETC.—§§3375.06-3375.30, R.C., 3375.40 (C)

## SYLLABUS:

The boards of library trustees appointed pursuant to Sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30, Revised Code, are authorized under Sections 3375.30 and 3375.40 (C), Revised Code, to contract with one of such boards of library trustees for the joint purchasing of supplies, equipment, books, records, films, and other library materials, and for the paying by each such library of the proportionate share of such joint purchases.

Columbus, Ohio, June 24, 1960

Hon. Walter Brahm, Librarian of State Library  
Columbus, Ohio

Dear Sir:

I have before me your letter which reads as follows:

“In efforts to be as efficient as possible and keep costs down, libraries in Ohio are finding that many of the processes which they do individually, such as purchasing of books, processing, cataloging, buying of supplies, preparation and duplicating of book lists, can be done much more easily and inexpensively by centralizing such service in a specific library, with each library paying the producing library for what ever supplies or services it receives. This allows the benefit of high-volume production to be passed along to all libraries in the area.

“Before proceeding with these plans, some libraries have asked whether it is permissible for them to make contracts with each other for such services. Specifically, can two or more libraries organized under sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30 of the Revised Code of Ohio enter into an agreement with each other in the purchase of supplies, equipment, books, records, films and other library materials whereby one library orders, processes and catalogs such supplies or materials with each contracting library paying its proportionate share of the cost?

“We assume that this is within the authority of library boards as expressed by section 3375.33:

“The boards of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30 of the Revised Code 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 comprising such other powers and privileges as are conferred upon them by law.’

“Is not such an agreement further expressly authorized or implied in section 3375.40, setting forth the powers of library boards? Paragraph (B):

“(B). Expend for library purposes, and in the exercise of the power enumerated in this section, all moneys, whether derived from unclassified property taxes or otherwise, credited to the free public library under its jurisdiction and generally do all things it deems necessary for the establishment, maintenance, and improvement of the public library under its jurisdiction;’

“Your predecessor in 1946 issued an informal opinion, No. 118, regarding the legality of libraries jointly contributing and maintaining the Union Catalog. The opinion is quoted:

“The maintenance of proper catalogs is evidently one of the prime essentials for library service and if it is regarded as a mutual benefit to the various libraries to maintain this service of interchange of books and to keep a general catalog showing what books are available in the libraries of the state, it appears to me that the incidental expense involved would be a legitimate item of expenditure on the part of the various public libraries of the state.’

“We can see no legal reason why libraries could not proceed to work out cooperative arrangements among themselves. A number of such arrangements between libraries have been in force for many years and state examiners have always approved of these expenditures. The only reason we ask the question now is that some of the libraries who for the first time are contemplating an agreement want to be assured it’s all right. My opinion is only a personal one to them so I would appreciate your official verification on this matter.”

Section 3375.33, Revised Code, provides:

“The boards of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, and 3375.30 of the Revised Code 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.”

(Emphasis added)

Sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30, Revised Code, mentioned in Section 3375.33, *supra*, provide, respectively, for the establishment of county, township, municipal, school district, county district, and regional district libraries. The same sections of the Revised Code are referred to in your letter in regard to the libraries involved in the determination of the question before me.

The provision in Section 3375.33, *supra*, expressly states that boards of trustees of libraries therein enumerated, have the authority, *inter alia*, to make contracts. The language used is clear and unequivocal and in no need of interpretation.

In this connection, your attention is also directed to Section 3375.40 (C), Revised Code, wherein boards of library trustees are authorized to "purchase", among other things, "personal property" necessary for the maintenance and operation of libraries under their jurisdiction. Purchase of personal property obviously involves the making of contracts, express or implied, such as here considered.

It follows that in the absence of some specific statutory provision whereby the libraries referred to in Sections 3375.33 and 3375.40 (C), *supra*, would be barred from entering into agreements with each other, the authority of such boards to act accordingly in regard to the plan outlined in your letter cannot be doubted.

I do not find such a statutory provision. On the contrary, an examination of Chapter 3375., Revised Code, dealing with the powers, duties, and functions of public libraries without respect to areas in which they may be operating, reveals that on such levels where practicality and necessity so dictate, all public libraries are considered, and treated, as a uniform state-wide centralized system. Evidence of this is found in many sections of Chapter 3375., *supra*.

Among these sections is Section 3375.05, Revised Code, which gives the state library board final authority in regard to the establishment and discontinuance of stations, branches, and traveling service on the part of public libraries which are receiving local tax support. Such final authority is reiterated in Section 3375.40 (F), Revised Code. Section 3375.35, Revised Code, requires all libraries here considered to file a complete annual report with the state library board. Section 3375.47, Revised Code, provides for the establishment of a board of library examiners which exercises state-wide authority. Section 3375.411, Revised

Code, effective as of October 6, 1955, makes the membership of public libraries employees appointed on or after January 1, 1956 in the public employees retirement system mandatory.

Under the plan described in your letter, the libraries here considered are to be assured of the legality of contracts whereby one of such libraries would be authorized by the participating group to order and purchase supplies, equipment, books, records, films and other literary material, with each of such libraries paying its proportionate share of the cost.

In the light of what has already been pointed out, such plan is authorized not only under the express provisions of Sections 3375.33 and 3375.40 (C), *supra*, but may also be considered as an extension, by voluntary cooperative action, of the general idea of uniformity of public libraries in the state as expressed in Sections 3375.05, 3375.40 (E), 3375.35, 3375.47 and 3375.441, *supra*.

Accordingly, it is my opinion and you are advised that the boards of library trustees appointed pursuant to Sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30, Revised Code, are authorized under Sections 3375.30 and 3375.40 (C), Revised Code, to contract with one of such boards of library trustees for the joint purchasing of supplies, equipment, books, records, films and other library materials, and for the paying by each such library of the proportionate share of such joint purchases.

Respectfully,

MARK McELROY  
Attorney General