

OPINION NO. 77-091

Syllabus:

1. Public library funds may not be used for the purpose of voter registration, absent reimbursement by the board of elections to the library for the actual costs incurred.
2. A board of library trustees and a board of elections may enter into a contract whereby library personnel and facilities would be used to conduct voter registration and the library would be reimbursed by the board of elections for the actual costs incurred.

To: Anthony G. Pizza, Lucas County Pros. Atty., Toledo, Ohio
By: William J. Brown, Attorney General, December 19, 1977

I have before me your request for my opinion on the following two questions concerning the use of public library facilities for voter registration.

1. May public library funds be used to pay library personnel for registering voters, absent reimbursement by the board of elections to the library for the actual costs incurred?
2. May a public library district and a county board of elections enter into a contract providing for reimbursement to the library for the costs of voter registration services provided by library personnel?

R.C. Chapter 3375 provides for the establishment and operation of various types of public libraries, including county and municipal free public libraries, township and school libraries, and county and regional library districts. The control and management of each of these libraries is, pursuant to various provisions in R.C. Chapter 3375, vested in appointed boards of library trustees. The powers of boards of library trustees are uniformly provided for in R.C. 3375.40. Since the powers of the boards of trustees of the various types of public libraries are uniform, it is not necessary to limit the scope of this opinion to any one particular type of public library. Thus, for the purpose of this opinion, the term public library includes county and municipal free public libraries, township and school libraries, and county and regional library districts.

With respect to your first question, it is a well-settled rule in Ohio that public funds may be expended only by clear authority of law, and that all cases of doubt must be resolved against such an expenditure. *State ex rel. Stanton v. Andrews*, 105 Ohio St. 489 (1922); 1977 Op. Att'y Gen. 77-033. R.C. 3375.40 (B), set forth below, regulates the expenditure of public library funds.

Each board of library trustees appointed pursuant to sections 3375.06, 3375.10, 3375.12, 3375.15, 3375.22 and 3375.30 of the Revised Code may:

. . . .

(B) Expend for library purposes and in the exercise of the powers 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. (Emphasis added)

Thus, the power of a board of library trustees to expend funds is limited to expenditures for library purposes. Although the purpose of a public library has expanded beyond the traditional one of lending books, I am unable to conclude that voter registration is a library purpose. Voter registration is a specific statutory component of the election process. The General Assembly has expressly delegated the responsibility for voter registration to the Secretary of State and the various local boards of elections. Moreover, the General Assembly has provided for the costs and the apportionment of costs for voter registration in R.C. Chapter 3501. R.C. 3501.11 (B) expressly provides that the board of elections shall "fix and provide the places for voter registration." The costs of personnel, facilities and materials for voter registration are, pursuant to R.C. 3501.17, to be charged to the subdivisions in which the registration is held. Since the General Assembly has expressly provided for the costs of voter registration, such costs cannot appropriately be assumed by another public body, not expressly authorized to incur such costs.

Thus, it is my opinion that public library funds may not be used for the purposes of voter registration, absent reimbursement by the board of elections to the library for the actual costs incurred.

You have also inquired whether a board of library trustees and a county board of elections may enter into a contract providing for reimbursement to the library for the costs of voter registration services provided by the library.

Boards of library trustees are, pursuant to R.C. 3375.33, bodies politic and corporate and do have the power to contract. Although the statute does not proscribe limitations on the boards' power to contract, the power of a public body to contract is limited to the making of such contracts as are likely to promote the general purposes of its creation or are reasonably incident to such purposes. Ohio College of Dental Surgery v. Rosenthal, 45 Ohio St. 183 (1887); Long v. Board of Trustees, 24 Ohio App. 261 (1926). The determination of the appropriateness of a particular contractual undertaking is, however, generally left to the discretion of the officers of the public body.

Support for the application of this general proposition to a board of library trustees is found in the general and specific powers granted to the trustees in R.C. Chapter 3375. Each of the boards of library trustees created pursuant to R.C. Chapter 3375. has general authority with respect to the control and management of the library under its jurisdiction. As noted in R.C. 3375.40 (B) a board may "generally do all things it deems necessary for the establishment, maintenance, and improvement of the public library under its jurisdiction." Moreover, each board of library trustees may, pursuant to R.C. 3375.40 (H), "make and publish rules for the proper operation and management of the free public library under its jurisdiction, including rules pertaining to the provisions of library services to individuals, corporations or institutions that are not inhabitants of the county."

In view of the fact that a board of library trustees has broad, general powers with respect to the control and management of the library under its jurisdiction, it is my opinion that a board of library trustees may enter into a contract with the board of elections pursuant to which library personnel and facilities would be used to conduct voter registration and the library would be reimbursed by the board of elections for the actual costs incurred.

With respect to the board of elections, it is undoubtedly clear that the board has the authority to enter into such a contract with the public library, since the

board of elections is specifically required, pursuant to R.C. 3501.11 (B) to "fix and provide the places for registration."

Thus, it is my opinion and you are so advised that:

1. Public library funds may not be used for the purpose of voter registration, absent reimbursement by the board of elections to the library for the actual costs incurred.
2. A board of library trustees and a board of elections may enter into a contract whereby library personnel and facilities would be used to conduct voter registration and the library would be reimbursed by the board of elections for the actual costs incurred.