

**OPINION NO. 88-104****Syllabus:**

1. Pursuant to R.C. 3375.49, the board of county commissioners shall provide to the county law library association at the expense of the county, suitable rooms, sufficient and suitable bookcases, and heating and lighting for the rooms. Pursuant to R.C. 3375.48, the compensation of the law librarian and up to two assistants shall be paid from the county treasury.
2. Funds derived by a county law library association pursuant to R.C. 3375.50-.53 may be expended only for the purposes expressed in R.C. 3375.54.
3. R.C. 3375.54, which authorizes a county law library association to spend funds received under R.C. 3375.50-.53 for the support and operation of the law library association, does not include authority to expend such funds for the provision of items that the county is required by statute to provide.
4. R.C. 3375.54 does not authorize a county law library association to spend funds received under R.C. 3375.50-.53 for the purposes of moving bookcases to a new location, vacating prior tenants to make a new location available for law library use, adapting a new location for law library use, or transporting law books to a new location.

**To: Charles L. Bartholomew, Wyandot County Prosecuting Attorney, Upper Sandusky, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 28, 1988**

I have before me your request for my opinion on whether the Wyandot County Law Library Association may expend certain funds for the necessary relocation of the law library. Specifically, you have asked whether funds received by a county law library association pursuant to R.C. 3375.50-.53 may be expended for the following purposes:

- a. labor expenses to remove books from the shelves at the old location; move them to the new location; and restock the shelves at the new location;
- b. labor expenses to remove existing bookcases from the old location; move them to the new location; and install the old bookcases at the new location;
- c. labor expenses incidental to vacating the prior occupant of the new location to make it available for law library use; and
- d. remodeling expenses necessary to adapt the new location to law library use?

The board of county commissioners is required to provide the county law library association with suitable rooms, sufficient and appropriate bookcases, and heating and lighting for such county law library rooms. R.C. 3375.49. *See Akron Law Library Association v. Morgan*, 13 Ohio App. 3d 119, 468 N.E.2d 384 (Summit County 1983) (R.C. 3375.49 creates a clear legal duty upon the county to provide adequate facilities for a county law library). The compensation of the librarian and up to two assistants is also paid from the county treasury. R.C. 3375.48.

County law library associations acquire funds from two separate and unrelated sources. First, pursuant to R.C. 3375.50-.53, the association receives a portion of fines, penalties, forfeited bonds, recognizances, and deposits that have been collected by the county, municipal, common pleas, and probate courts situated within the county. The second source of funding for county law library associations consists of private contributions, gifts, or dues. Funds received pursuant to R.C. 3375.50-.53 may be expended only for purposes specified in R.C. 3375.54. 1986 Op. Att'y Gen. No. 86-102; 1985 Op. Att'y Gen. No. 85-030; 1955 Op. Att'y Gen. No. 4856, p. 74. Conversely, funds collected from private contributions are discretionary and may be expended as the association's board of trustees sees fit, providing, of course, that authorization for such expenditures appears in the association's charter, bylaws, rules or regulations.<sup>1</sup> *Van Wert County Law Library Association v. Stuckey*, 42 Ohio Op. 1, 94 N.E.2d 32 (C.P. Van Wert County 1949); Op. No. 86-102.

Monies paid to the county law library association, however, may be expended only as provided for in R.C. 3375.54:

The money that is paid to the board of trustees of a law library association under sections 3375.50 to 3375.53 of the Revised Code shall be expended in the *support and operation of the law library association* and in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a

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<sup>1</sup> The attorney general will not conjecture as to the contents of the association's charter, bylaws, rules or regulations. I will note, however, with respect to private monies, a county law library association "is like any other private association and may use such private funds for any proper purpose of the association." *Van Wert County Law Library Association v. Stuckey*, 42 Ohio Op. 1, 8, 94 N.E.2d 32, 45 (C.P. Van Wert County 1949); *See also* 1986 Op. Att'y Gen. No. 86-102.

system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, and other services, materials, and equipment that provide legal information or facilitate legal research. (Emphasis added).

With the exception of the phrase "support and operation of the law library association," R.C. 3375.54 contemplates expenditures for the purpose of acquiring legal research materials and related services and equipment. See Op. No. 85-030 (the goal of R.C. 3375.54 is a system of legal research while the goal of R.C. 3375.49 is a suitable physical facility). Thus, the county is obligated to provide the county law library association with a physical facility for the library. The county law library association is given the responsibility of meeting regular and routine expenses related to the provision and operation of a legal research system.

The meaning of the "support and operation" language emphasized above has not been discussed in prior cases or opinions. Prior to January 15, 1981, R.C. 3375.54 did not include the "support and operation" language or the exhaustive list of proper expenditures. The older version of the statute stated:

The money paid to the board of trustees of a law library association under sections 3375.50 to 3375.53, inclusive, of the Revised Code, shall be expended in the purchase of lawbooks and in the maintenance of such law library association.

Am. H.B. 1, 100th Gen. A. (1953) (eff. Oct. 1, 1953). This version of R.C. 3375.54 was interpreted as authorizing expenditures for goods or services necessary for the upkeep of the law library association and the furtherance of legal research, and as excluding expenditures for items that the county was obligated to provide. 1973 Op. Att'y Gen. No. 73-071 (expenditures for videotape equipment not authorized); 1955 Op. No. 4856, p. 74, 76-77 (maintenance "denote[s] upkeep, support,...efficiency, and includes any services which the statute has not made the responsibility of the county").

The purpose for amending the statute was to clearly and unambiguously allow money received pursuant to R.C. 3375.50-.53 to be spent for the purposes expressed in the statute. See 1979-1980 Ohio Laws, Part II, 3030 (Am. Sub. H.B. 559, eff. Jan. 15, 1981). The amended statute fails to define "support and operation." It does appear, however, that R.C. 3375.54 continues to exclude authorization for expenditures for bookcases, rent, librarian's compensation, and heat and lights, since those expenditures are delegated to the county elsewhere in the statute. R.C. 3375.48; R.C. 3375.49. See Op. No. 85-030 (the board of trustees of a county law library association is not authorized to expend funds received under R.C. 3375.50-.53 to purchase bookcases). Because the statute directs that the physical facility be provided at county expense, it is logical to interpret the "support and operation" language of R.C. 3375.54 to apply to other library-related expenses, and in particular to the regular routine expenses necessary for the upkeep, support and efficiency of the law library association. See generally Op. No. 86-102; Op. No. 85-030.

The purpose for which expenditures under R.C. 3375.54 are authorized clearly does not include labor expenses for moving bookcases to a new location. The duty of the county to provide adequate rooms with sufficient and suitable bookcases is absolute, and that duty includes the responsibility of paying the expenses of changing locations when such change is necessary. *Akron Law Library Association v. Morgan*. Further, R.C. 3375.54 cannot be read as authorizing expenditures to cover the costs of vacating prior tenants from a new location. Rather, the responsibility for assuring that prior tenants have vacated and that the facility is suitable for the law library has been placed upon the county. See *State ex rel. Mahoning Law Library Association v. Bd. of Comm'rs*, 53 Ohio St. 2d 56, 372 N.E.2d 349 (1978) (the duty of the county to provide the county law library association with adequate space is not excused by an argument that prior tenants are reluctant to vacate the space).

As for expenses to adapt the new location to law library use, such are the duty of the county under R.C. 3375.49. Just as vacating prior tenants is necessary to

providing a suitable physical facility, I find that so too is the initial expense of adapting a room to law library use. A room that is inappropriate for use as a law library could hardly be considered a "suitable room" under R.C. 3375.49. Again I quote the language of Op. No. 85-030 at 2-110, "R.C. 3375.49 requires the county to provide the county law library with *suitable physical facilities*." (Emphasis added). See also 1955 Op. No. 4856 at 78 (overruling, in part, 1949 Op. Att'y Gen. No. 130, p. 950) ("book shelves or new shelving that may be required in a rearrangement of the law library must be furnished by the county and paid for with county funds as provided by [R.C. 3375.49], and not treated as a 'maintenance' expenditure under [R.C. 3375.54]"). Thus, a county law library association may not spend money received pursuant to R.C. 3375.50-.53 for the purpose of moving bookcases to a new location, vacating prior tenants, or adapting a new location to law library use. Such expenses are the duty of the county under R.C. 3375.49.

Your inquiry into labor expenses for packing and transporting law books is somewhat more problematical. Two separate inquiries appear appropriate here. First, since the law library association has complete dominion over and responsibility for the "purchase, lease, or rental of lawbooks," R.C. 3375.54, it must be considered whether the association has the authority to pay the expense of transporting those books to a new location. Second, it must be determined whether packing and moving law books may be considered an appropriate expense under the "support and operation" clause of R.C. 3375.54.

"[P]urchase, lease, or rental of lawbooks", R.C. 3375.54, is purely acquisitional language. It connotes the acquisition of law related books and periodicals on a regular basis. No authority for expenses relating to moving the entire library facility can be found here. In this respect, R.C. 3375.54 authorizes expenditures made in the regular and ordinary course of affairs for the acquisition of law books and does not include packing and moving expenses. Similarly, while packing books and moving them to a new location does not constitute "support and operation of the law library association," R.C. 3375.54, it is, here, part of a necessary move of the library's physical facility. It is my opinion that expenses associated with a necessary move are the responsibility of the county. Thus, the labor expense of packing and moving law books is required to be borne by the county as a necessary expense in providing an adequate physical facility under R.C. 3375.49. See generally 1974 Op. Att'y Gen. No. 74-032 (since the board of county commissioners is responsible for providing the general health district with suitable quarters, the board is also responsible for paying expenses of moving the health district offices, when such moving expenses are not included within the appropriation for the health district).

Under the present statutory scheme, the association keeps only that amount of moneys collected under R.C. 3375.50-.53 which are necessary to meet its regular and routine expenses. Not less than ninety percent of the unencumbered portion of these funds is returned to the political subdivisions from which the funds came. R.C. 3375.56 See also Op. No. 85-030 at 2-110 n.1. The existence of this statutory scheme strengthens the logic of placing the burden of large extraordinary expenses on the county and leaving only the regular and routine expenses for the association.

It is, therefore, my opinion, and you are advised as follows:

1. Pursuant to R.C. 3375.49, the board of county commissioners shall provide to the county law library association at the expense of the county, suitable rooms, sufficient and suitable bookcases, and heating and lighting for the rooms. Pursuant to R.C. 3375.48, the compensation of the law librarian and up to two assistants shall be paid from the county treasury.
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