

OPINION NO. 85-030**Syllabus:**

A board of trustees of a county law library association has no authority to expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of purchasing bookcases.

To: Michael G. Spahr, Washington County Prosecuting Attorney, Marietta, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, June 19, 1985

I have before me your request for my opinion in which you ask whether a county law library association may, pursuant to R.C. 3375.49 and R.C. 3375.54, expend funds received under the provisions of R.C. 3375.50-.53 to purchase bookcases.

A county law library association receives funds from the municipal courts, R.C. 3375.50, the county court, R.C. 3375.51, and the probate court and court of common pleas, R.C. 3375.52, situated within the county which the county law library association serves. These courts are required to pay to the board of trustees of the law library association a portion of the fines, penalties, and forfeited bonds, recognizances, and deposits which have been collected by the courts. In addition, a portion of the fines, penalties, and forfeited deposits, bail bonds and recognizances taken in any court on account of prosecutions for violations of R.C. Chapters 4301 and 4303, as well as state traffic laws, must be paid monthly to the board of trustees of the law library association of the county in which the court is situated. R.C. 3375.53.

R.C. 3375.54 sets forth the purposes for which the funds paid to a county law library association pursuant to R.C. 3375.50-.53 may be expended, as follows:

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 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.)

Thus, R.C. 3375.54 does not expressly authorize a county law library association to expend moneys received from courts pursuant to R.C. 3375.50-.53 for the purchase of bookcases. Such moneys may be expended for this purpose only if bookcases fall within the category of "other services, materials, and equipment that provide legal information or facilitate legal research."

In construing the language of R.C. 3375.54, it is necessary for me to examine R.C. 3375.49. See Suez Co. v. Young, 118 Ohio App. 415, 195 N.E.2d 117 (Lucas County 1963) (statutes relating to the same subject matter should be read together and harmonized; in interpreting an ambiguous statute, the entire legislation on the subject should be considered). R.C. 3375.49 reads:

For the use of the law library referred to in section 3375.48 of the Revised Code, the board of county commissioners shall provide, at the expense of the county, suitable rooms with sufficient and suitable bookcases in the county courthouse or, if there are no suitable rooms in the courthouse, any other suitable rooms at the county seat with sufficient and suitable bookcases. The librarian or person in charge of the law library shall receive and safely keep in these rooms the law reports and other books furnished by the state for use of the court and bar. The board of county commissioners shall heat and light any such rooms. The books, computer communications console that is a means of access to a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, other materials and equipment utilized in conducting legal research, and furniture of the law library association that are owned by, and used exclusively in, the law library are exempt from taxation. (Emphasis added.)

In 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), the court construed the predecessors of R.C. 3375.49 and R.C. 3375.54 with regard to the purchase of bookcases and concluded that, "a law library association may not use funds collected under [R.C. 3375.50-.53] for the purchase of bookcases, light fixtures, rent or heat, as [R.C. 3375.49] provides that the county commissioners shall furnish the above."

In reliance on Stuckey, 1955 Op. Att'y Gen. No. 4856, p. 74, noted that, pursuant to R.C. 3375.49, bookcases must be furnished by the board of county commissioners and paid for out of county funds, and accordingly concluded that moneys collected pursuant to R.C. 3375.50-.53 could not be used to purchase bookcases.

When Stuckey and 1955 Op. No. 4856 were decided, R.C. 3375.54 read substantially as follows: "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 maintenance of such law library association." While the trustees' duty under this version of R.C. 3375.54 to provide for the maintenance of the association is obviously subject to a broad interpretation, both Stuckey and 1955 Op. No. 4856 declined to construe the statute as authority for the purchase of bookcases. 1955 Op. No. 4856 noted that, "[t]he

word 'maintenance,' in Section 3375.54, Revised Code, has been held to denote upkeep, support, to keep in a state of efficiency, and includes any services which the statute has not made the responsibility of the county," id. at 76-77, and concluded that because bookcases must be furnished by the county they could not be treated as a maintenance expenditure under R.C. 3375.54. Similarly, in 1969 Op. Att'y Gen.No. 69-082, it was stated that:

Under this authority [to maintain the law library pursuant to R.C. 3375.54] the trustees may expend these funds to provide all services necessary for the maintenance of the law library except those which are required to be furnished by the county commissioners. . . .

Those items which are required to be furnished by the county commissioners are set forth in [R.C. 3375.49]. These include physical facilities such as rooms, bookcases, heat and light. Such items are of a different nature from a system of legal research [which is provided for in R.C. 3375.54].

Id. at 2-177 to 2-178.

It is apparent that R.C. 3375.49 and R.C. 3375.54 each enable a county law library to receive different types of facilities and services. R.C. 3375.54 is still aimed toward the provision of a system of legal research, while R.C. 3375.49 requires the county to provide the county law library with suitable physical facilities. Pursuant to R.C. 3375.54, moneys collected from the courts may only be used to provide those services and equipment which directly relate to legal research, while, pursuant to R.C. 3375.49, the county commissioners must provide adequate physical facilities to the association, including bookcases. See generally Akron Law Library Association v. Morgan, 13 Ohio App. 3d 119, 468 N.E.2d 384 (Summit County 1983) (R.C. 3375.49 imposes upon the county a clear legal duty to provide adequate facilities for a county law library). Thus, I conclude that bookcases are not "other services, materials, and equipment that provide legal information or facilitate legal research," for purposes of R.C. 3375.54. The trustees of the law library association have no authority to expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of providing those facilities and services which the county must provide pursuant to R.C. 3375.49 and thus may not purchase bookcases from such funds.¹ The law library association must look to the county commissioners to provide sufficient and suitable bookcases pursuant to R.C. 3375.49.

As a final matter, I note that a county law library may receive funds from private sources, such as contributions, donations, and membership dues. See Van Wert County Law Library Association v. Stuckey; 1955 Op. Att'y Gen. No. 5308, p. 280; 1955 Op. No. 4856; 1946 Op. Att'y Gen. No. 1243, p. 698. The use of such funds is not restricted by statute. Thus, a county law library association is free to purchase bookcases from funds it receives from private sources. Van Wert County Law Library Association v. Stuckey.

In conclusion, it is my opinion, and you are advised, that a board of trustees of a county law library association has no authority to expend funds received under the provisions of R.C. 3375.50-.53 for the purpose of purchasing bookcases.

¹ Pursuant to R.C. 3375.56, the library trustees must refund to the treasurers of the political subdivisions from which funds were received pursuant to R.C. 3375.50-.53, not less than ninety percent of the unexpended funds remaining at the end of the year. If the trustees were permitted to purchase items for which the county is responsible, they would be able to reduce the amount of funds which they are required to refund to the various political subdivisions. See 1946 Op. Att'y Gen. No. 1243, p. 698.