

OPINION NO. 78-020**Syllabus:**

1. The State Library Board may, under R.C. 3375.01 (E), approve a resolution which provides for creation of two separate county library districts in the same county if the State Board determines that such action would best promote "a statewide program of development and coordination of library services."
2. The State Library may, under R.C. 3375.01 (E), approve a resolution for creation of a county library district, even though such resolution does not comply with the strict territorial requirements of R.C. 3375.19 or 3375.20, if the State Board determines formation of such a county library district would best promote "a statewide program of development and coordination of library services."

To: Ira Phillips, Librarian, The State Library of Ohio, Columbus, Ohio
By: William J. Brown, Attorney General, April 18, 1978

I have before me your request for my opinion regarding formation of two county library districts in Butler County. Your request reads, in part, as follows:

The Board of Trustees of the Lane Public Library in Hamilton, Ohio has proposed conversion from a school district library to a county district library. The proposed district would cover only the territory now covered by the library district and not the entire county. The Lane Public Library has been designated a county extension library. The Middletown Free Public Library, a municipal library in Butler County, is also designated county extension library.

. . . .

[T]he two libraries agreed to divide Butler County diagonally with each library serving a specific area. No district is served by more than one library.

Therefore, you have raised the following questions:

1. Can two county district libraries be formed in one county?
2. Can a county district library be formed to serve only the areas it is presently serving and not expand to include other territory?

Before addressing your questions specifically, a brief discussion of the powers of the State Library Board is appropriate. Under R.C. 3375.01 the State Library Board is vested with broad supervisory power over the state's numerous libraries. The section provides, in pertinent part, as follows:

The state library board is responsible for the state library of Ohio and a statewide program of development and coordination of library services, and its powers include the following:

. . . .

(E) Approve, disapprove, or modify resolutions for establishment of county district libraries, and approve, disapprove, or modify resolutions to determine the boundaries of such districts, along county lines, or otherwise, . . .

In 1975 Op. Att'y Gen. No. 75-026, this office had occasion to consider the powers of the State Library Board under R.C. 3375.01. At that time it was my opinion that the State Library Board had powers beyond those granted to counties, townships, municipal corporations, and school districts elsewhere in R.C. Chapter 3375. In essence, the conclusion of that opinion was that the State Library Board could establish boundaries for proposed county library districts in any manner it saw fit in order to best promote "development and coordination of library services" across the state.

The broad powers which the State Library Board now enjoys were conferred in 1969 (133 v. S262). Prior to that time, creation of county library districts was strictly controlled by R.C. 3375.19 and 3375.20. Both of these sections remain in effect; however, the limitations over creation of county library districts expressed in them appear to have been greatly relaxed by R.C. 3375.01 (E), supra.

R.C. 3375.19 allows creation of a county library district through a resolution adopted by a board of county commissioners and approved by the voters of the proposed district. It provides, in part, as follows:

In each county there may be created a county library district composed of all of the local, exempted village, and city school districts in the county which are not within the territorial boundaries of an existing township, school district, municipal, county district or county free public library, by one of the following methods:

[A resolution authorizing creation of the district, adopted by the county commissioners either on its own initiative, or by petition, is presented to the voters for approval.]

An alternative method for creation of a county library district is found in R.C. 3375.20. It provides:

In any county in which there is not in existence a county library district and in which all of the local, exempted village, and city school districts in the county, in which there is not located a main library of a township, municipal, school district, association, or county free public library, are receiving approved service from one or more of such libraries, there may be created a county library district.

The boards of trustees of the library or libraries providing approved library service to the school districts in the county in which there is not located a main library

of a township, municipal, school district, or county free public library may adopt a resolution requesting the formation of a county library district composed of all of the school districts being served by such library or libraries. Such resolution or resolutions shall set forth the school districts to be included in the proposed county library district and it shall be submitted to the taxing authority of the subdivision or subdivisions having jurisdiction over the library or libraries requesting the formation of such proposed library district.

[If the resolution is approved by the various taxing authorities, the district is created.]

Under either of these sections, formation of the two county districts you describe would not be possible. R.C. 3375.19, the district is to be composed of "all of the local, exempted village, and city school districts" not already within the boundaries of the existing library district enumerated in the statute. As that section contemplates one county district for all such school districts, creation of more than one is in contravention of that section, and could create many obvious problems. For instance, if the resolution is passed in one "county district" and not in the other, the clear purpose of this section to consolidate unserved school districts would be thwarted. As to R.C. 3375.20, it also appears that the section contemplates one consolidated unit to serve the unserved school districts. Moreover, it is clear that the Lane Public Library could not simply convert from a school district library to a county district library since R.C. 3375.20 specifically applies only to school districts in which no main library is located, and you indicate that Lane is a main library for the school district. Thus, formation of two county library districts as described in your request could not be effectuated under R.C. 3375.19 or 3375.20.

Likewise, examination of R.C. 3375.19 and 3375.20 reveals that formation of a county library district would require expansion of the territory supporting the libraries. R.C. 3375.19 demands that the proposed county district include all of the school districts not within the boundaries of an existing library district. Creation of a county district which included only selected districts would circumvent the clear purpose of the statute to consolidate all "unattached" school districts into one library unit. Similar reasoning applies to R.C. 3375.20 as it too contemplates consolidation of the school districts not already the site of a "main library of township, municipal, school district, association, or county free public library."

Although the action proposed by these libraries would not be possible under R.C. 3375.19 or 3375.20, those sections do not bind the State Library Board. R.C. 3375.01 (E), as previously indicated, grants the State Board wide discretion, and if the Board is of the opinion that the best interests of the state library system would be served by creation of two county library districts in Butler County, then it may so act. Moreover, should the Board make a similar determination with respect to the size of such a county district, or districts, then the Board could, under R.C. 3375.01 (E), allow such a resolution to go before the voters. The restriction imposed upon the creation of county library districts under R.C. 3375.19 and 3375.20 apply only to bodies of limited powers. The State Library Board, on the other hand, is free to act under R.C. 3375.01 in any manner necessary to promote a statewide program of development and coordination of library services." 1975 Op. Att'y Gen. No. 75-026.

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

1. The State Library Board may, under R.C. 3375.01 (E), approve a resolution which provides for creation of two separate county library districts in the same county if the State Board determines that such action would best promote "a statewide program of development and coordination of library services."

2. The State Library may, under R.C. 3375.01 (E), approve a resolution for creation of a county library district, even though such resolution does not comply with the strict territorial requirements of R.C. 3375.19 or 3375.20, if the State Board determines formation of such a county library district would best promote "a statewide program of development and coordination of library services."