

Staffeldt, Darlene

To: Scheier, James
Cc: Strege, Karen
Subject: RE: Questions

Jim, Thank you for your quick response on both of these questions. Karen and/or I may want to talk to your regarding what to do next related to your response to question number 2 but I will wait until Karen is back in the office before we pursue that issue. Again, thanks, Darlene

-----Original Message-----

From: Scheier, James
Sent: Monday, August 23, 1999 3:20 PM
To: Staffeldt, Darlene
Cc: Strege, Karen
Subject: Questions

This is in response to your August 20th email. You had two questions.

First, you asked whether there is currently any requirement that the Attorney General review interlocal agreements. There is not. Montana Code Annotated section 7-11-106 used to require the Attorney General to review all interlocal agreements to ensure that they were consistent with state law. That statute was repealed in 1991.

Second, you asked whether it is legal for a county to levy a library tax on county property where the county does not have an established county library. In my opinion, this is probably not legal. In my opinion this is probably not legal.

Your question states that there do not appear to be any contracts establishing a linkage between funding by the county and the provision of library services. Thus, I am assuming that we are not dealing with 1) library services provided pursuant to an interlocal agreement between the county and a city or cities, 2) a joint city-county library pursuant to 22-1-316, or 3) a city library that has assumed the functions of a county library pursuant to 22-1-315.

Montana Code Annotated section 22-1-304 states that the "governing body of any . . . county **which has established a public library** may levy in the same manner and at the same time as other taxes are levied a special tax in the amount necessary to maintain adequate library service" upon the property in the county. (Emphasis added). The emphasized language quoted above would seem to require as a condition precedent to the authorized tax levy that the county has established a public library. This statute does not appear to authorize a county to levy a tax and then distribute the proceeds to various city libraries that are located within the county. I have also not located any other statute that authorizes that procedure.

I hope this answers your questions. Give me a call if you wish to discuss this or have other questions.

Staffeldt, Darlene

To: Jim Scheier
Cc: Strege, Karen
Subject: two questions

Jim, I have a couple questions for you today.

1. We have a number of interlocal agreements between cities and counties establishing library services that were formally reviewed and/or carried the State's Attorney General's signature, these are older contracts. Is there any current requirement that interlocal agreements pass through your office?

2. Is it legal for a County (County Commissioners) to levy a library tax on county property but not have an established county library board/county library services? We have a county that appears to be doing a county levy and then distributing the monies to a multiple of city libraries within the county...there also appears to be no contracts establishing the linkage with funding and services.

If you have any questions as you try to answer my questions please let me know. I will be in the office full days early next week and half day on Thursday and Friday. Give me a call at 444-5381 or leave me a message. Thank you. Darlene