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Multi-Service
districts

MONTANA STATE LIBRARY

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

(406) 444-3115

HELENA, MONTANA 59620



December 18, 1987

TO: Jim Scheier
FROM: Sheila Cates *SC*
RE: Library Laws

I have two questions needing answers:

- 1) The City Council in Ennis has told the library board that any monies from gifts, memorials, donations, etc., have to be turned over to the city and the funds aren't available until the next fiscal year.

The way I read MCA 22-1-309 (8) Trustees - Powers and Duties that is not the case. It gives the library board the power to accept and expend any such funds as I mentioned above.

Is that too simplistic of an interpretation on my part?

- 2) This one is definitely more complicated.

Lewis & Clark Library Board is considering the possibility of taking advantage of the law allowing libraries to form multi-service districts. They have been told by the County Commissioners that I-105 makes that impossible now. Is that the case? What are the legal implications of forming a district as a result of I-105?

I will be meeting with their representatives on Saturday, January 9, 1988 so I need your information as early as possible that week so I will be prepared.

Thanks for your assistance, Jim. I will be out of the office until January 4, but if you have a question you might contact Sara or Mary Bushing.

SC/rb

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STATE
OF
MONTANA
DEPARTMENT OF JUSTICE

AGENCY LEGAL SERVICES BUREAU
Justice Building, 215 North Sanders, Helena, Montana 59620
(406) 444-4582

MEMORANDUM

TO: SHEILA CATES, Coordinator
Library Development Services
Montana State Library

FROM: JIM SCHEIER JS
Assistant Attorney General

DATE: 8 January 1988

RE: Your Memo of December 18, 1987

Your recent memo asks two questions. The first question is whether the library board of trustees in Ennis must turn over any moneys from gifts, memorials, donations, etc., to the city council, and whether such funds should be unavailable to the trustees until the next fiscal year. Section 22-1-309, MCA, clearly states that the library board of trustees shall, inter alia, have the power to accept gifts, grants, donations, etc., and to expend or hold such funds for the specific purpose of the gift or donation. The Attorney General has determined that library boards of trustees have powers and duties that reflect "substantial autonomy from the governing body of the local governmental unit within which the library has been established." 41 Op. Att'y Gen. No. 91 (Nov. 13, 1986). In my opinion, the advice given to the library board by the City Council of Ennis is incorrect.

Your second question concerns I-105, which placed a "freeze" on property taxes. The Lewis and Clark County Library Board of Trustees has been told by the county commissioners that as a result of I-105 it is now impossible to form a multi-jurisdictional service district. Sections 7-11-1101 to 1112, MCA, provide the statutory procedure for forming such districts. Section 7-11-1106, MCA, requires passage of an ordinance including, inter alia, "the maximum property tax mill levy for property taxes in the district." Section 7-11-1112, MCA, provides in part:

- (1) Local governments organizing a multi-jurisdictional service district are authorized to levy property taxes in an amount not to

exceed that authorized for the district in 7-11-1106, and to appropriate funds derived from other than general tax revenues for the operation of the district. Property taxes levied for a library established under this part as a multijurisdictional service must be added to taxes levied under 22-1-304. [Emphasis added.]

Section 22-1-304, MCA, establishes maximum property tax mill levies that local governing bodies are authorized to assess to maintain public libraries (five mills on county property; seven mills on city property).

In essence, I-105, which has been codified at sections 15-10-401 to 412, MCA, mandates that a taxing unit may not increase the amount of an individual taxpayer's property tax for tax years commencing after December 31, 1986, other than as specifically allowed under the exclusions set forth in section 15-10-412, MCA. For example, the statute specifically excludes from the scope of the tax freeze such things as levies for rural improvement districts, special improvement districts, and city street maintenance districts. See §§ 15-10-412(8)(a), (b), (d), MCA. Multi-jurisdictional service districts are not included within the exclusions set forth in the statute, and it does not appear that such districts would be excepted for any other reason from the restrictions established by the law. See 42 Op. Att'y Gen. No. 21 (Aug. 5, 1987).

Thus, if forming the district would require increasing the amount of a taxpayer's property tax, such action would contravene the express provisions of the new law setting a limitation on property taxes, and would be impermissible.