

**N.D.A.G. Letter to Koppy (Aug. 17, 1987)**

August 17, 1987

Mr. Allen Koppy  
Morton County State's Attorney  
210 Second Avenue N.W.  
Mandan, ND 58554

Dear Mr. Koppy:

Thank you for your letter of June 29, 1987, in which you request my interpretation of N.D.C.C. § 40-38-02(2) as it relates to the fiscal administration of the Morton County Library fund. Specifically, you ask whether the city auditor or county treasurer is responsible for check writing as opposed to the library board.

As amended by the 1987 Legislative Assembly, N.D.C.C. § 40-38-02(2) states as follows:

The city auditor or county treasurer shall establish and maintain the fund to account for library revenues and shall make payments from the fund for invoices that have been submitted and approved by the governing body of the library. In the case of a contract with another library for service delivery, the city auditor or county treasurer shall promptly transmit all funds received to the established library fund of the agency delivering service. On request of the city auditor or county treasurer and during an audit, the governing board of the library shall supply its records. The records must be provided on a timely basis. The fund may not revert to the governing body of the city or county at the end of any fiscal year. The fund must be used exclusively for the establishment and maintenance of public library service.

The legislative history of N.D.C.C. § 40-38-02(2) indicates that its purpose is to ensure that the fiscal administration of library funds complies with generally accepted accounting standards and the Single Audit Act of 1984 by requiring that city auditors or county treasurers maintain bookkeeping records for the libraries.

Based on the statutory language and its legislative history, it is my opinion that the record keeping functions associated with the library fund are the responsibility of the city auditor or county treasurer. This would include such tasks as check writing.

Although the record keeping functions of the library fund are required to be performed by city auditors or county treasurers, the library board of directors retains exclusive authority over the moneys in the library fund. N.D.C.C. § 40-38-04(3). Thus, the city auditor or county treasurer has no authority over the fund other than record keeping functions and is required to comply with the directions of the governing body of the library.

If you have any further questions on this matter please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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