



HANDBOOK

Ohio County Commissioners

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CHAPTER 133

COUNTY LIBRARIES

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133.01 INTRODUCTION

This chapter will describe the library systems currently existing in Ohio, including the county law library system. The types of public library districts authorized under current law include the county free public library, the county district library, the township library, the municipal free public library, and the school district library. There also is a legal option to create regional library districts. Table 133-1 at the end of this chapter outlines the current library organizational options.

Unlike boards of county commissioners or township trustees, or the legislative authorities of municipal corporations, library boards of trustees do not have the authority under state law to levy property taxes or issue bonds. They must rely on a designated taxing authority to place property tax levies and bond issues on the ballot. In the case of county free public libraries established under ORC 3375.06 and county library districts established under 3375.19, the designated taxing authority is the board of county commissioners.

The board of county commissioners also is the appointing authority for four of the seven members of the board of trustees of a county district library. ORC 3375.22. The appointing authority for the board of trustees of a county free public library is the court of common pleas of the county in which the library is located.

Public library districts established in the state are political subdivisions for purposes of ORC Chapter 167, and therefore, may become members of a regional council of governments created in accordance with ORC 167.01. OAG Opinion 93-031.

Public library districts also are considered political subdivisions for purposes of ORC 9.833, and, as such, may participate in any of the self-funded health care benefit programs established under that section. OAG Opinion 93-031.

Public library districts in the state of Ohio also may participate in specified joint organizations such as an area library service organization (ORC 3375.70), an interstate library compact, and a metropolitan library system. In addition, specified libraries may be designated by the state library board as "county extension center" libraries under ORC 3375.05. These libraries must meet specified standards established by the state library board and are responsible for extended library services outside of their service districts but within the county.

County law libraries are much different from public libraries in the way they are funded and managed. County law libraries are described in detail in Chapter 99 of this handbook and in a more general way in section 133.12 of this chapter.

133.02 ASSOCIATION LIBRARIES

In addition to public library systems authorized under ORC Chapter 3375, Ohio also has what are known as "association libraries." There are currently 19 association libraries in the state. As private entities, association libraries are not subject to the jurisdiction of any political subdivision, do not have physical boundaries, do not have taxing districts and do not have taxing authorities that are empowered to authorize tax levies or impose taxes on their behalf.

Despite their status as essentially "private" libraries, there have been instances in the state where association libraries have appeared on the ballot under the auspices of a particular taxing authority. There are a number of legal issues surrounding these instances that are unresolved.

Even though few association libraries may receive monies for property tax levies, those that were organized and operating before January 1st, 1968 are eligible to receive state funding from the Library and Local Government Support Fund (LLGSF) discussed in sections 133.10 and 133.11. These association libraries may receive LLGSF funding provided they extend the benefits of their library to all of the inhabitants of their counties on equal terms.

133.03 STATE LIBRARY BOARD - ORC 3375.01

The state library board is composed of five members, appointed by the state board of education. The state library board is responsible for the state library and for a statewide program of development and coordination of library services. Its functions, in addition to the operation and maintenance of the state library, include the following:

1. Accepting, receiving, administering and expending funds, materials and aid it receives from public and private sources, for library purposes. ORC 3375.01 (B).
2. Administering funds that the General Assembly makes available for the improvement of public library services, interlibrary cooperation, or other library purposes.
ORC 3375.01 (C).
3. Contracting with other agencies and organizations, including libraries, within or outside the state, for library services and other related purposes. ORC 3375.01 (D).
4. Approving, disapproving, or modifying, in accordance with ORC Chapter 119, resolutions establishing county library districts or determining their boundaries.

- ORC 3375.01 (E).
5. Defining and adjusting library district boundaries resulting from school consolidations.
ORC 3375.01 (F).
 6. Amending, defining and adjusting the boundaries of a library district resulting from the application of one or more boards of library trustees. ORC 3375.01 (G). However, the authority of the state library board to amend, define and adjust boundaries under this section does not extend to the boundaries of Ohio public libraries established by any library association. Ohio Attorney General Opinion 2002-016.
 7. Encouraging and assisting the efforts of libraries and local governments to develop mutual and cooperative solutions to library service problems. ORC 3375.01 (I).
 8. Designating by rule five depository libraries to provide statewide, geographically distributed access to texts and other materials that are to be deposited there, in accordance with the rule. ORC 3375.01 (J).
 9. Recommending to the governor and the General Assembly changes in the law that will strengthen and improve library services and operations. ORC 3375.01 (K).

133.04 POWERS OF LIBRARY BOARDS OF TRUSTEES - ORC 3375.33 - 3375.41

The powers of library boards of trustees – including those that govern county free public libraries, county district libraries, township libraries, municipal fee public libraries and school district libraries – are very broad in nature.

Under the provisions of ORC 3375.33, each board of library trustees is a body “politic and corporate,” capable of suing and being sued and of contracting, acquiring, holding, possessing and disposing of real and personal property.

Each board of library trustees also has the following powers:

1. Holding title to and having custody of, real and personal property under its jurisdiction. 3375.40 (A).
2. Spending for library purposes all money credited to it from the Library and Local Government Support Fund (LLGSF) or other sources. ORC 3375.40 (B).
3. Purchasing, leasing, constructing, remodeling or renovating buildings or parts of buildings and other real property, necessary for the proper maintenance and operation of free public libraries under its jurisdiction. The costs of these activities may be paid in installments or otherwise. The financing of these costs may be provided through the issuance of notes, through an installment sale, or through a lease-purchase agreement
ORC 3375.40 (C).
4. Purchasing, leasing or otherwise acquiring automobiles and other items of personal property under the same methods listed in number 3 above. ORC 3375.40 (C).

5. Establishing and maintaining libraries, branches, library stations and traveling library services within its territorial jurisdiction or, with the approval of the state library board, outside its territorial jurisdiction. ORC 3375.40 (E) and (F).
6. Appointing and training employees, and establishing their salaries. This power includes the authority to pay the reasonable tuition costs of any employee who enrolls in a course of study considered by the board to be essential to the duties of the employee, or to his or her improvement. ORC 3375.40 (G).
7. Making and publishing rules for the proper operation and management of library facilities, including rules pertaining to the provisions of library services to individuals and entities that are not located within the county. ORC 3375.40 (H).
8. Establishing and maintaining a museum in connection with a free public library under its jurisdiction. ORC 3375.40 (I). A board also has the authority to contract with a not-for-profit corporation to establish a museum within its territorial jurisdiction that is not connected to a free public library. ORC 3375.402.
9. Accepting, by the adoption of a resolution, any gift, endowment, or bequest made to it, as long as the gift, bequest or endowment does not limit free access to the libraries under its jurisdiction. ORC 3375.40 (J).
10. By a two-thirds vote of its full membership, setting aside unencumbered surplus money remaining in its general fund for any authorized purpose, including creating or increasing a special building and repair fund or acquiring equipment and supplies. ORC 3375.40 (K).
11. Procuring and paying all or part of any of the following for its employees, or their spouses and dependents: group life insurance, hospitalization insurance, major medical, disability benefits, dental care, eye care, hearing aids, or prescription drug insurance, or any combination of these types of insurance coverage. ORC 3375.40 (L).
12. Paying dues and expenses for the library or its trustees who join library associations. ORC 3375.40 (L).
13. Upon the adoption of a resolution, purchasing liability insurance for trustees, officers and employees of its libraries. ORC 3375.401.
14. Contracting with other libraries for the provision of library services. This power extends to libraries operated by public or private schools, colleges, universities, professions, occupations, or businesses. ORC 3375.403.

133.05 LIBRARY BOARDS OF TRUSTEES - ORGANIZATION AND ELECTION - ORC 3375.32

Under ORC 3375.32, each library board of trustees must meet in January of each year to organize and select from its membership a president, vice-president and a secretary, each of whom serves for a term of one year. At the same meeting each board must elect and fix the compensation of a clerk, who may be a member of the board, and who serves a term of one year. The clerk, before beginning his or her duties, must issue a bond in an amount and with surety to be approved by the board, payable to the board, and conditioned for the faithful performance of the official duties required of the clerk.

133.06 COUNTY FREE PUBLIC LIBRARIES - TAX LEVY BY BOARD OF COUNTY COMMISSIONERS - ORC 3375.07

In any county where a county free public library district has been created in accordance with ORC section 3375.06, a board of county commissioners may, at its June session each year, levy a tax without voter approval of up to one mill on each dollar of taxable property in the county, for the purpose of maintaining the library.

133.07 COUNTY FREE PUBLIC LIBRARIES - TRANSFER OR LEASE OF PROPERTY BY A BOARD OF COUNTY COMMISSIONERS

Under ORC section 3375.08, a board of county commissioners may, by resolution, transfer, convey, or lease any property of the county, real or personal, that is suitable for public library purposes, to the board of trustees of any free public library that is providing free public library service to all the inhabitants of the county. The transfer, conveyance or lease may be upon any terms that are agreed upon between the board of county commissioners and the library board of trustees.

133.08 CREATION OF COUNTY LIBRARY DISTRICTS - ORC 3375.19, 3375.20, 3375.201

In each county there may be created a county library district. The territory of the county library district is composed of all the territory of the local, exempted village, and city school districts that does not lie within an existing township, school district, municipal, county district or county free public library district.

A county library district may be created by one of the following methods:

1. The board of county commissioners may, on its own, initiate the creation of the district by resolution providing for the submission of the question to the electors of the proposed district. ORC 3375.19 (A).
2. The board of county commissioners must adopt a resolution providing for the question of the creation of the district to be presented to the electors of the proposed district, if the board receives a petition signed by at least 10% of the qualified electors of the proposed district, or 500, whichever number is less. ORC 3375.19 (B).

If a majority of the electors voting on the question of creating a county library district vote yes, then the district is created.

3. In a county where a county library district does not exist, a county library district also may be created through requests made, to their respective taxing authorities, by the boards of library trustees of other library districts operating within the county. If the taxing authorities of the library districts approve the requests, they must notify the board of county commissioners of the county of the creation of the county library district. ORC 3375.20.

4. A county library district also may be created if any taxing authority listed in 3) above receives a petition signed by at least 10%, or 500, whichever is the lesser number, of the qualified electors of the subdivision voting at the last general election. If voters approve the

formation at the general election, a county library district is to be established in accordance with ORC 3375.201.

133.09 COUNTY LIBRARY DISTRICTS - TAX LEVY BY BOARD OF COUNTY COMMISSIONERS - ORC 3375.23

The board of county commissioners of a county in which a county library district is located may annually levy a tax on the taxable property of the library district, in amount not to exceed one mill, to provide funds for the operation of the library district. This is a tax on "inside millage."

This tax is to be levied after the board of trustees of the county library district certifies to the board of county commissioners, during the month of May, the amount of money needed to operate the library district during the ensuing year. This certification also must include the amount of money the library district anticipates to receive during the ensuing year from all sources other than a tax levy on the property of the library district.

133.10 COUNTY LIBRARY DISTRICTS - ISSUANCE OF BONDS AND NOTES BY BOARD OF COUNTY COMMISSIONERS - ORC 3375.24, 3375.43

The board of county commissioners of any county that has a county library district is the taxing authority for that library district and, in that capacity, may issue bonds and notes of the library district under ORC Chapter 133. These bonds and notes may be issued for the purpose of acquiring land and for the constructing and equipping of one or more buildings.

However, no bonds or notes may be issued for these purposes except in accordance with a vote of the electors of the county library district. Bond issues for county library districts and other library districts may be submitted at general, primary or special elections and require a majority vote for approval.

All funds generated by the issuance of bonds and notes are deposited in a special library fund, the monies in which may only be spent on the order of the board of trustees of the county library district.

The title to all property acquired with the proceeds of these bonds and notes shall be held by the board of trustees of the county library district.

133.11 PROPERTY TAX LEVIES OUTSIDE THE TEN-MILL LIMITATION PROPOSED BY BOARDS OF COUNTY COMMISSIONERS FOR LIBRARIES - ORC 5705.19

At any time, and in any year, a board of county commissioners, as the taxing authority for a county library district, may, by a two-thirds vote of its members, certify in the form of a resolution that it is necessary to levy, with voter approval, a tax outside the ten-mill limitation for the purpose of providing funds to the county library district.

All other taxing authorities for libraries, except school boards, also have this same authority, which is granted under ORC 5705.19 (D), to levy the property tax "for a public library, of, or supported by, the subdivision under whatever law organized or authorized to be supported."

The voter-approved tax levy for library funding may be for any specified number of years or for a continuing period of time, as set forth in the resolution. If the voters approve the tax

levy, a board of county commissioners may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with ORC sections 5705.191 or 5705.193.

133.12 PROPERTY TAX LEVIES PROPOSED BY BOARDS OF LIBRARY TRUSTEES - ORC 5705.23

Under ORC 5705.23, the board of library trustees of any county library district, or of any municipal, school district or township library district, may, by a vote of two-thirds of its members, declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation to provide an adequate amount of money for the "necessary requirements" of the library district.

The library board of trustees also may declare by resolution that a tax in excess of the ten-mill limitation is needed for "the construction of any specific improvement or class of improvements" that the board is authorized to make or acquire and which can be included in a single issue of bonds.

Like a resolution approved by a board of county commissioners on behalf of a board of library trustees and discussed in section 133.11, the resolution may provide that the tax will be for any specified number of years or for a continuing period of time. ORC 5705.19 (SS) (4).

The authority of a board of trustees of a county library district to propose these tax levies is separate and distinct from the authority of a board of county commissioners to propose property tax levies or bond issues under ORC 3375.23, 3375.24, 3375.43 or 5705.19.

The board of trustees of a county library district may submit its proposed tax levy to the voters no more than twice in a single calendar year. The tax levy may be submitted to the voters of the county library district only, and not to the voters in other parts of the county who do not reside in the county library district, or it may be submitted to all of the voters of the county. ORC 5705.23.

When a board of county commissioners receives a resolution from a board of library trustees for a county library district proposing a tax levy, the board of county commissioners is under a mandatory duty to adopt a resolution providing for the submission of the tax levy to the voters of the county library district.

A board of county commissioners has no authority to refuse to submit the proposed levy to the voters. See OAG 88-013. Nor does the ORC grant a board of county commissioners the authority of reduce the amount of millage requested by a library board of trustees.

The resolution adopted by the board of county commissioners must conform in all other respects to the resolution certified to it by the board of library trustees.

133.13 FUNDING FOR COUNTY FREE PUBLIC LIBRARIES AND COUNTY LIBRARY DISTRICTS - THE LIBRARY AND LOCAL GOVERNMENT SUPPORT FUND

In addition to voter-approved bond issues and unvoted levies of up to one mill approved by a board of county commissioners or another taxing authority, the Library and Local Government Support Fund (LLGSF) is the major source of funding for public library districts in the state of Ohio. The LLGSF was created by the 115th General Assembly in House Bill 291. Currently, the fund receives 5.7% of the collections for the state's personal

income tax. Today, the LLGSF provides about 76.4% of all library funds, while property taxes provide 18%. Of the 251 public library districts in the state, 176 (70.4%) receive no tax revenue at all, except through the LLGSF.

133.14 LLGSF DISTRIBUTION FORMULA - ORC 5747.46

The statutory distribution formula for the LLGSF is ORC 5747.46 consists of two parts: the guaranteed share and the share of the excess.

The guaranteed share is equal to the previous year's fund total, plus an inflation factor. This portion of the fund is distributed to counties based on each county's share of the previous year's fund total.

When there is an amount in excess of the guaranteed share, it is distributed among counties based on their equalization ratios. Each county's equalization ratio is determined by the county's most recent percentage of the state's population and the county's percentage share of the previous year's total distribution.

Each county's equalization ratio is multiplied by the total amount of the share of the excess to determine each county's portion of that amount. The ratio allows those counties that have had the lowest per capita LLGSF distributions in previous years to see the greatest per capita growth in their funding, while ensuring that all counties have relative growth.

As is the case with the local government fund (LGF) and the local government revenue assistance fund (LGRA), county budget commissions determine the amounts to be given to each library district within the county. The amount given to each library district is based on its needs for building construction and improvement, operation, maintenance, and other expenses.

In the last two state budget cycles — for fiscal years 2002 and 2003 and 2004 and 2005 — funding for the LLGSF has been essentially frozen at fiscal year 2001 levels. The current "freeze" on LLGSF funding is scheduled to expire with the distributions that will be made in August 2005. Whether the freeze will expire on schedule remains to be seen, because state lawmakers are continuing to grapple with large budget deficits as they enter the 2006 - 2007 state budget cycle.

133.15 - REGIONAL LIBRARY DISTRICTS - ORC 3375.28, 3375.29, 3375.30, 3375.31

The boards of county commissioners of two or more adjoining counties may, by joint resolutions, create a regional library district. The territory of the regional library district must include the territory of all school districts in those counties that are not maintaining a public library district. ORC 3375.29.

Currently, there are no existing regional library districts in the state of Ohio. Nor has one ever been created in the past by boards of county commissioners.

Under statute, a regional library district is overseen by a seven-member board of library trustees, each of whom serves a seven-year term. The first appointments to the board are to be made by the boards of county commissioners of the counties making up the regional library district, at a joint meeting. Thereafter, each appointment is to be made by a single participating board of county commissioners in rotating alphabetical order. ORC 3375.30.

The board of county commissioners may annually levy a tax on the taxable property of a county located within a regional library district, not to exceed one mill, for the purpose of providing funds for the library district's operation. ORC 3375.31.

133.16 COUNTY LAW LIBRARIES - ORC 3375.49, ORC 3375.88

The General Assembly created county law libraries to serve both the state and local needs of judges and lawyers. In so doing, the General Assembly gave county law librarians the responsibility to "receive and keep" law reports and other books furnished by the state for the use of the court and the bar. ORC 3375.49. The General Assembly further stipulated that law libraries must welcome, free of charge, members of the General Assembly, county officers and judges of all courts in a county to the library, and permit the use of its books free of charge. ORC 3375.88.

A county law library is established in a county by a county law library association. Such associations are governed by boards of trustees endowed with specific powers and responsibilities as specified in the ORC. The library is supported by a mixture of public funds generated by criminal fines, penalties, and bond forfeitures, county general revenue fund expenditures, as well as by private monies collected from the library's contributing members.

The various funding sources for county law libraries that the General Assembly carefully enumerates in statute, have become a serious point of contention among boards of county commissioners and others who believe that county general revenue fund commitments to the libraries are no longer necessary, in light of the significant amounts of criminal fine money already earmarked for the libraries.

For a detailed analysis of county law library funding, county responsibilities relative to law libraries, and other information, please consult chapter 99 of this handbook.

TABLE 133-1

LIBRARY ORGANIZATIONAL OPTIONS

TYPE OF LIBRARY	KEY ORC REFERENCE	NUMBER OF TRUSTEES	APPOINTED BY
County Free Public Library 6-year terms 3 of each party - maximum Expenses only.	3375.06	6	Court of Common Pleas ORC 3375.06
County Library District 7-year terms Expenses only.	3375.19	7	Board of County Commissioners - appoints 4 members. Common Pleas Judges - appoint 3 members.
Municipal Free Public Library District 4-year terms. 3 of each party - maximum. No compensation.	3375.12	6	Mayor
School District Library District. 7-year terms. No compensation.	3375.14	7	Board of Education
Township Library District. No specified term length. No compensation.	3375.09	3	Board of Township Trustees

