

February 2, 2011

Mr. Matt Johnson
Jefferson County Attorney
P.O. Box H
Boulder, MT 59632

Re: New Library District and Appropriated Funds

Dear Mr. Johnson:

I have reviewed your letter of September 22, 2010, raising the question whether the Jefferson County Library System is required to transfer two sources of funds to the newly-created North Jefferson County Public Library District ("North District"). Since this question is moot as to one of the funds, and since the answer in regards to the other fund is clear based on the application of statute, I have determined that a letter of advice rather than a formal opinion is the appropriate response.

Jefferson County contains three public libraries, one of which is located in Clancy. On July 1, 2010, the North District was created, pursuant to Mont. Code Ann. §§ 22-1-701, et seq., replacing the Jefferson County Library System as the provider for the northern area of the County that includes the Clancy library facility.

Your question involves two funding sources that the North District has requested be transferred to them. The first is a \$75,000 account line item for fiscal year 2010, referred to by the North District as the "Clancy Building Fund." While the North District labels this money a "fund," the Jefferson County Library System and the County Assessor consider it a "budgeted capital outlay." In any case, as acknowledged by the North District, this fund is only made available for "capital expenditures [during the] fiscal year" in excess of \$5,000. It is my understanding that no capital expenditures for the Clancy library were made or submitted for fiscal year 2010. Therefore this fund either has expired or should revert to the general system fund--i.e. the Jefferson County Library System fund--and the question of whether it should or could have been allocated to the North District is moot. Additionally, there appears to be a factual question as to the exact

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purpose of this fund. “An opinion from this office is not an appropriate vehicle for resolving such factual questions.” 49 Op. Att’y Gen. No. 16 (2002).

The second funding source is referred to by the North District as the “reserve fund.” This is an “additional amount” of funding added to the library mill levy “as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year,” in this case July to November of 2010. Mont. Code Ann. § 7-6-4034(1)(b). The library levy, which established the reserve at issue, did not fund the libraries individually. Instead, it specifically funded “a 5 mill levy for the Jefferson County Library System.”

The North District claims they are entitled to 1/3 of the reserve allocated to the Jefferson County Library System for July to November of 2010, because they now are responsible for the expenses of one of the three libraries in the County. However, as noted by the North District, the statutes providing for the establishment of a public library district, Mont. Code Ann. §§ 22-1-701 through -716, are silent concerning the allocation of funds taxed and collected prior to the formation of the new district. The statutes do not, therefore, require or provide for the transfer of funds from the original library system to the new district. Without such a statutory mandate, the Jefferson County Library System, the named recipient of the mill levy that established the reserve, is not required to transfer a portion of the reserve to the North District. Whether the Jefferson County Library System, or perhaps the County Commissioners, may transfer a portion of the reserve is beyond the scope of the question presented.

I hope you find this helpful. This letter of advice may not be cited as an official opinion of the Attorney General.

Sincerely,

J. STUART SEGREST
Assistant Attorney General

jss/jym