

LIBRARY:  
LIBRARY BOARD:  
CITY LIBRARY BOARD:  
ST. JOSEPH LIBRARY BOARD:  
PURCHASE OF BOOKS AND SUPPLIES:  
CITY PURCHASING AGENT:  
CITY PURCHASES:

The city library board of the City of St. Joseph is authorized by the charter and by the statutes, to make its own purchases of necessary books and supplies for the use of the library. No order or ordinance of the City of St. Joseph or its officers compelling the purchase of all supplies by the city purchasing agent, is applicable to the city library board.

March 4, 1964

OPINION NO. 120



Honorable J. E. (Jerry) Schellhorn  
State Representative  
Buchanan County, 2nd District  
2610 Penn Street  
St. Joseph, Missouri

Dear Mr. Schellhorn:

On March 2, 1964, you requested an opinion of this office in which the question asked may be stated in the following language:

Whether the City of St. Joseph or the Mayor, by administrative order, may require the city library board to comply with the order that all city purchases of supplies shall be made by the city purchasing agent.

The City of St. Joseph is now a constitutional charter city, and Section 16.6 of the charter relative to the library board, authorizes the board to appoint a qualified librarian and to adopt bylaws, rules and regulations for their own guidance and for the government of the libraries. Subparagraph (2) of said section contains the following language:

"They shall have the exclusive control of the expenditure of any moneys collected to the credit of the library fund, and of the construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased, or set apart for that purpose.

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All moneys received for the library shall be deposited in the city treasury to the credit of the city library fund, and shall be kept separate and apart from other moneys of the City, and drawn upon by the proper officers of the city, upon the properly authenticated warrants of the library board."

In addition, subparagraph (4) of said section contains the following language:

"The library board shall, notwithstanding any provisions of this charter, be constituted and appointed and have such powers and duties as are now prescribed by the General Statutes for library boards in all cities of this State."

Significantly, subparagraph (2) above quoted, is identical to subparagraph (4) of Section 182.200, RSMo 1959, which section applies to city libraries in cities containing more than five thousand inhabitants.

Prior to the adoption of the city charter, St. Joseph was a city of the first class and the library of the City of St. Joseph was governed by Sections 182.310 to 182.400. A portion of Section 182.340 relative to the power of library boards of cities of the first class is as follows:

"\* \* \* They shall have exclusive control of all the moneys collected to the credit of the library fund and of the construction and equipment of any library building, and the supervision, care and custody of the grounds, rooms and buildings constructed, leased or set apart for that purpose, and of the purchase of books and all supplies necessary in the conduct of a public library. \* \* \*"

It therefore appears that the language of the charter and the language of Section 182.200, that the board "shall have the exclusive control of the expenditure of all moneys collected to the credit of the library fund" gives the library board full control of its funds. This would include the purchase of books and supplies for the library, therefore, the

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board would not be required (although it might do so if it wished) to utilize the office of purchasing agent of the City of St. Joseph for the purchase of supplies.

Since the charter gives the city library board the powers prescribed by the General Statutes for library boards in all cities (St. Joseph City Charter, Section 16.6(4)), it would appear that the language of Section 182.340, supra, is applicable wherein the board is given the power to purchase books and "all supplies necessary in the conduct of a public library." This language expressly gives the board the power to purchase needed supplies. The board therefore is not compelled to utilize the services of the city purchasing agent although, as above stated, it may do so.

This view appears to be in harmony with Section 6.3 of the St. Joseph City Charter, which establishes a Division of Purchases to be headed by the city purchasing agent, which contains the following language:

"\* \* \* The purchasing agent, pursuant to rules and regulations adopted by ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department, board or other agency of the City unless otherwise provided in this charter. \* \* \*" (Underscoring ours.)

The foregoing views are in harmony with prior opinions of this office. In an opinion dated February 18, 1947, to Melvin E. Fish, which related not to a city library but to a county library under Sections 182.010 to 182.120, this office held that a county library board had the sole right to appoint a county librarian and his assistants, and this determination could not be controlled by any state or county agency.

Also, in an opinion dated May 8, 1961, to Paxton P. Price, this office held that a city library under Sections 182.310 to 182.400 applicable to cities of the first class, could contract with the governing body of other public libraries in the state for co-operative library services, and such contract is not subject to review, approval or disapproval by the council of cities of the first class.

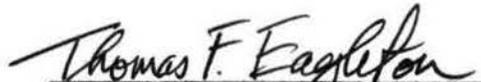
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CONCLUSION

The city library board of the City of St. Joseph is authorized by the charter and by the statutes, to make its own purchases of necessary books and supplies for the use of the library. No order or ordinance of the City of St. Joseph or its officers compelling the purchase of all supplies by the city purchasing agent, is applicable to the city library board.

The foregoing opinion which I hereby approve, was prepared by my Assistant, J. Gordon Siddens.

Very truly yours,

  
THOMAS F. EAGLETON