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DIRECT DIAL:

Opinion Letter No. 107-84

John A. Pelzer
Commissioner of Administration
Office of Administration
Post Office Box 809
Jefferson City, Missouri 65102



Dear Mr. Pelzer:

This letter is in response to your request for an opinion of this office asking whether library networks which receive state funds under Section 182.812, RSMo Supp. 1983, are instrumentalities of the state for the purposes of Sections 105.300.7, RSMo Supp. 1983, and 105.350.1, RSMo 1978, relating to plans for the extending of social security benefits to employees of political subdivisions.

Section 182.812 provides as follows:

1. As used in this section, the term "library network" shall mean [sic] a formal organization of different types of libraries which is created to serve the constituencies of the participating libraries in an improved fashion through planning and implementing projects and joint activities designed to share and extend combined resources.

2. Each library network shall certify to the state librarian, through its board of directors, the plan for its establishment, along with such other information as the state librarian deems necessary. No library network shall be eligible for state funds under this section until its establishment has been approved by the coordinating board for higher education.

3. The state librarian shall, under rules and regulations of the coordinating board for

John A. Pelzer

higher education, administer any moneys appropriated by the general assembly for state aid to library networks. The sum so appropriated for state aid to library networks shall be separate and apart from any and all appropriations made to the state library for any other purpose. The state librarian shall certify to the coordinating board for higher education for its approval the amount of each grant to each approved library network, and warrants shall be issued for the amount so allocated and approved.

4. Each library network receiving moneys under the provisions of this section shall submit annually to the state librarian, no later than the last day of the fiscal year in which such moneys were received, a report giving an accounting of activities and expenditures of funds during such years.

5. In the event that the general assembly does not appropriate sufficient funds to fully fund all library networks eligible for aid under this section, the amount which has been appropriated shall be distributed pro rata to each eligible library network. Each eligible library network's pro rata share shall be that percentage which that network's grant, as approved by the coordinating board, bears to the total amount of all grants approved by the coordinating board for all networks, but in no event shall it exceed the grant approved by the coordinating board.

It seems clear from the provisions of Section 182.812 that a "library network" is a formal organization of different types of libraries created for the purposes of that section. We understand that such networks often include both public and private libraries and are sometimes organized as not-for-profit corporations.

We conclude that such a network is neither a political subdivision of the state nor an instrumentality of the state or of one or more political subdivisions of the state within the provisions of Sections 105.300.7 and 105.350.

Therefore, such library networks may not report their social security taxes through the Office of Administration.

Very truly yours,



JOHN ASHCROFT
Attorney General