

ADMINISTRATIVE REGULATIONS

TAB: Governance

DOCUMENT NUMBER: ARM 10-55-14

SECTION: Resolutions by Library Board of Directors

SUBJECT: LIBRARY FUND

SUMMARY

This resolution is the outcome of a disagreement between the BOCC and Library Board regarding two issues: (1) whether the BOCC can direct the transfer of funds from the Library Fund to the General Fund for the purpose of balancing the County government's funds, and (2) whether the County can charge the Library for administrative services rendered. The history of the disagreement is included in the resolution. The issues are centered in the 1983 agreement between the two boards which is represented in ARM 10-10-10 and in pertinent Kansas statutes appended to that agreement. The resolution represents a request by the Library Board that the BOCC modify its resolution regarding the Library Fund.

Effective Date

Reviewed:

July 12, 2012 (reaffirmed)
August 2, 2016
November 8, 2018
October 22, 2020

PREFACE

The following resolution was adopted by the Board of Directors of the Johnson County Library at its regular meeting of April 15, 1992:

HISTORY

1. On January 30, 1992, the Board of County Commissioners of Johnson County adopted Resolution 010-92, which, among other things, purported to authorize the encumbrance of \$202,513 in the Johnson County Library Fund and to authorize "the transfer, as necessary, of the monies encumbered for administrative services charges." BOCC Resolution 010-92, page 3.

2. After consulting with the Board of County Commissioners, the Board of Directors of the Johnson County Library, by way of its counsel, requested an opinion from the Attorney General, Robert T. Stephan, as to whether BOCC Resolution 010-92 was in violation of statute.

3. On April 6, 1992, Attorney General Stephan issued Attorney General Opinion 92-47, which provided, in pertinent part, as follows:

(a) Resolution 010-92 is in violation of K.S.A. 79-2934, which provides, in pertinent part, as follows:

The budget which is approved and filed with the county clerk for each year shall constitute and shall hereafter be declared to be an appropriation for each fund, and the appropriation

thus made shall not be used for any other purpose.

No part of any fund shall be diverted to any other fund, whether before or after the distribution of taxes by the county treasurer, except as provided by law.

(b) The board of county commissioners cannot authorize the transfer of funds from the Library Fund through the process of passing a resolution, when the resolution violates state statute.

(c) Money raised for the purpose of providing library services cannot be diverted to the General Fund for other purposes.

(d) The board of county commissioners cannot charge county agencies for administrative services which they are performing pursuant to statute.

(e) The county treasurer is the lawful custodian of the Library Fund.

(f) Even if presented with an order signed by the chairman of the board of county commissioners, the county treasurer is prohibited from transferring funds from the Library Fund pursuant to Resolution 010-92.

IT IS ACCORDINGLY RESOLVED:

That the Board of Directors of the Johnson County Library requests that the Board of County Commissioners modify Resolution 010-92 to comply with Attorney General Opinion 92-47; not to attempt the transfer of any funds from the Johnson County Library Fund to the County General Fund; to remove any encumbrances placed on the \$202,513 in the Johnson County Library Fund; and to include the sum of \$202,513 in the anticipated carry-over amount in the Johnson County Library Fund for the 1993 Johnson County Library budget.

October 22, 2020

ARM 10-55-14 End