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State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
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July 25, 2023
OPINION 23-0070

Mr. William E. Weatherford
Secretary-Treasurer
Sabine Parish Police Jury
400 Capitol St.
Room 101
Many, LA 71449

64-1 LIBRARIES

La. R.S. 25:211, *et seq.*

Addresses questions concerning the relationship between the Sabine Parish Police Jury and the Sabine Parish Library Board of Control.

Dear Mr. Weatherford:

Your request for an Attorney General's Opinion on behalf of the Sabine Parish Police Jury (Police Jury) has been assigned to me for research and reply. In your request, you have asked several questions about the relationship between the Police Jury and the Sabine Parish Library Board of Control (Library Board).

Louisiana Revised Statute 25:211 gives the governing authority of any parish the power to create, by ordinance, a public library. The Library Board has the authority to establish rules and regulations, elect and employ a librarian, and, upon the recommendation and approval of the librarian, to employ assistant librarians and employees and fix their salaries and compensation.¹

In addition, La. R.S. 25:215(B)(5) transfers "the administration of and accounting functions for funds of the Sabine Parish Library" from the Police Jury to the Library Board. This office has opined that "the purpose of La. R.S. 25:215(B) is to 'alleviate the burden of the police juries in the routine check-writing and accounting functions of library funds legally imposed by R.S. 25:220 and to transfer such functions to the respective parish library boards.'"²

According to your opinion request, the Sabine Parish Library received a donation of land for the construction of a new library building. The Library Board prepared an annual budget for 2023 that allocates \$3.5 million for the construction of a new library building, contracted with an architect to design the building, and advertised for construction of the building. In light of these facts, you have asked a series of questions related to the Library Board's responsibility and control over the donation and the library budget in general.

¹ La. R.S. 25:215(A).

² La. Atty. Gen. Op. No. 13-0027 (quoting La. Atty. Gen. Op. No. 83-765).

Does the Library Board prepare the budget for the Sabine Parish Library? Does the Police Jury have the responsibility to approve the proposed budget of the Library Board?

A Library Board is not a special district or creature of the legislature.³ Instead, it is an agency of the parish, created by the governing authority of the parish pursuant to authority granted by the legislature, for the purpose of operating and administering the parish library system on behalf of the police jury.⁴ As such, the Police Jury retains general budgetary and fiscal control over the Library Board.⁵ This budgetary and fiscal control includes the power to require a Library Board to submit proposed budgets and statements of expenditures.⁶ Accordingly, the Library Board does have the authority to submit a proposed budget and may be required to do so by the Police Jury, but that budget is only a proposed budget to be submitted for consideration to the Police Jury pursuant to the Local Government Budget Act. La. R.S. 39:1305.

The Police Jury's general budgetary and fiscal control over its agencies includes the authority to approve an agency's budget in accordance with the Local Government Budget Act, specifically La. R.S. 39:1309. When a police jury budgets funds for library purposes under La. R.S. 25:217, the police jury has both the legal authority and the responsibility to approve, disapprove, or amend a budget adopted by the library board to the same extent that the police jury has those responsibilities as to its own budget. However, as discussed below, a Police Jury may not amend the budget if such an amendment would conflict with the provisions of La. R.S. 25:211, *et seq.*⁷

Except for items specifically set forth in La. R.S. 25:215(A), does the Police Jury have the authority to line-item veto the proposed budget prepared by the Library Board?

Yes. In addressing a police jury's general budgetary and fiscal control over agencies created by it, La. R.S. 33:1415(B) provides, in pertinent part:

Budgetary and fiscal control shall include, but not be limited to, approval of operating budgets *with the right to veto or reduce line-items*. In addition, no such agency or entity shall exercise any power or authority to submit to the people any proposal to levy any tax or issue any bonds unless the proposal therefor first has been submitted to and been approved by the governing authority of the parish or municipality. The parish or municipality shall exercise such other budgetary and fiscal controls as are necessary and proper to ensure the maximum feasible coordination of government on the local level.

³ La. Atty. Gen. Op. Nos. 16-0163, 06-0160, 00-80, and 83-766

⁴ La. Atty. Gen. Op. Nos. 13-0027, 06-0160, 04-0053, 90-339, and 83-766.

⁵ La. R.S. 33:1415. See La. Atty. Gen. Op. No. 13-0027.

⁶ La. Atty. Gen. Op. Nos. 16-0163, 06-0160, 00-80, and 83-766

⁷ La. R.S. 33:1415 (C).

(Emphasis added.) However, La. R.S. 33:1415(C) provides that where the provisions of this part could be interpreted to conflict with the provisions of La. R.S. 25:211, *et seq.*, relative to parish and municipal libraries and their boards, the provisions of La. R.S. 25:211, *et seq.*, shall prevail. Louisiana Revised Statute 25:215 reserves to the Library Board the authority to employ and fix the salaries and compensation for the librarian, assistant librarians, and other employees. This office has previously opined that a police jury may not, by line item in the parish budget, change the salaries of public library employees set by a Library Board.⁸ The Police Jury may veto or reduce line items in the Library Board's proposed operating budget, except where to do so would conflict with the provisions of La. R.S. 25:211, *et seq.*⁹

Since the Library Board is an agency of the Police Jury, are properties donated to the Library Board owned by the Police Jury and subject to sale by the Police Jury? Would the Parish be the owner of the new library building even though it was constructed with funds under the control of the Library Board?

We cannot opine on the specific donation at issue, but we will generally address the ability of the Library Board to own property. The Library Board may receive and accept unconditional gifts, donations, and contributions, but the gift or donation may not be accepted without the approval of the governing authority.¹⁰ Louisiana Revised Statute 25:211 empowers the governing authority of a parish to create, establish, equip, maintain, operate, and support public libraries. As an agency of the Police Jury, the Library Board does not have the authority to own property and the Parish is the owner of any property donated property.¹¹ For the same reasons, the Parish is the owner of any property constructed with funds under the control of the Library Board.

Can the Library Board legally enter contracts for architectural services and for the construction of a new library building?

No. The Library Board was established as an agency of the Police Jury. As an agency of the Police Jury, the Library Board is not designated as a corporate body, nor does it possess any powers independent of those prescribed by statute.¹² The Library Board's powers are limited solely to the adoption of rules and regulations for its own government and that of the library, and the election, employment, and compensation of certain personnel.¹³ Furthermore, the Library Board is not granted such other powers usually associated with political subdivisions, including the power to sue and be sued, the power to incur debt and issue bonds, the power to contract, the power to levy taxes, or the power to adopt ordinances.¹⁴ Accordingly, the Library Board does not have the ability to enter

⁸ La. Atty. Gen. Op. No. 04-0053.

⁹ See La. Atty. Gen. Op. No. 06-0160.

¹⁰ La. R.S. 25:221.

¹¹ La. Atty. Gen. Op. Nos. 99-413, 90-339, and 89-325.

¹² La. Atty. Gen. Op. No. 90-339.

¹³ See La. R.S. 25:215 and La. Atty. Gen. Op. No. 90-339.

¹⁴ La. Atty. Gen. Op. No. 99-413.

into a contract for the construction of a new building and the policy jury is the correct entity to enter into contracts for services.¹⁵

Since assets used by the Library Board were donated to or acquired with funds dedicated to providing a parish library, how could funds received by the sale of these assets as surplus property be used by the Police Jury?

When immovable property is no longer needed for public use, the parish governing authority has the power and authority upon a two-thirds vote of the members present to revoke the dedication of the property and sell the property in accordance with law.¹⁶

In La. Atty. Gen. Op. No. 02-0325, this office considered whether a police jury could use, lease, and/or sell property that formerly housed the parish library. The parish library had been purchased with tax proceeds dedicated to the purpose of equipping, operating, and maintaining a public library. We concluded that the funds derived from the sale of parish immovable property no longer needed for public use may be used for any lawful purpose even if the property was initially acquired and/or constructed with dedicated tax funds.¹⁷

In contrast, the police jury may not continue to own assets and use them for a purpose that does not comport with the dedicated tax. In La. Atty. Gen. Op. No. 08-0057, this office concluded that absent a voter-approved rededication of the library tax and bonds at issue, the parish could only use the assets in a manner consistent with the original intent of the approved proposition. The opinion concluded that St. Bernard Parish must either return the library building and land back to its originally intended purpose or must reallocate Parish funding, in an amount commensurate with the amount of the library building and land, to the library purposes provided in the tax proposition.

Is the Police Jury required to provide a parish library?

A governing authority of any parish or municipality may of its own initiative create, establish, equip, maintain, operate, and support a public library. However, a governing authority is *required* to create, establish, equip, maintain, operate, and support a public library when twenty-five percent of the duly qualified property taxpayers have petitioned the parish government to establish a library.¹⁸ Unless a petition to establish a library has been submitted to the parish government, the Police Jury is not statutorily mandated to create, establish, equip, maintain, operate, and/or support a public library.¹⁹

¹⁵ La. Atty. Gen. Op. No. 89-325.

¹⁶ La. R.S. 33:4717.

¹⁷ See also, La. Atty. Gen. Op. No. 81-1252.

¹⁸ La. R.S. 25:211.

¹⁹ *Id.*

Can the Police Jury abolish the Library Board, cease library operations in the parish, declare all library assets surplus, and sell all library assets?

Yes. Since the Library Board is an agency of the Police Jury, La. Const. Art. VI, § 15 grants the Police Jury, “without limitation, the power to abolish the agency.” The word “agency” includes boards and commissions. *Brasseaux v. Vermilion Parish Police Jury*, 361 So.2d 35 (La.App.1978). Additionally, La. R.S. 33:1415(A) provides that a parish governing authority that creates or establishes a board, commission, agency, or district has the power to abolish it, provided that any indebtedness of the board, commission, agency or district is provided for prior to abolishment.²⁰

As discussed above, La. R.S. 33:4717 authorizes the Police Jury to revoke the dedication of any immovable property that is no longer needed or necessary for public use.²¹ All remaining property or assets of an abolished library must be returned to the police jury. The police jury as the creator of the library should succeed to all of the assets, funds, rights, records, and other materials of the library.²² Thus as the owner, a police jury may sell, lease, or exchange any property owned by the police jury or the parish when such property is no longer needed for public purposes.²³

Can the operations of the Library Board be funded with transfers from the Police Jury’s general fund?

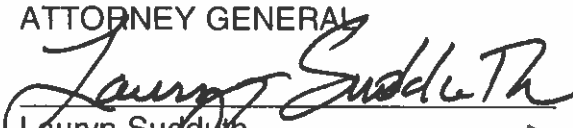
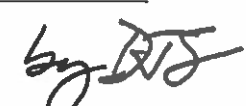
Yes. Louisiana Revised Statute 25:220 contemplates that the expenses, costs, and maintenance of the library shall be paid out of “funds specially budget from the general fund for library purposes, in default thereof, out of the special taxes voted, levied and collected by the governing authority for the library’s support and maintenance.”

We trust that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

BY:


Lauryn Sudduth
Assistant Attorney General 

²⁰ La. Atty. Gen. Op. No. 19-0070.

²¹ La. Atty. Gen. Op. No. 92-277.

²² La. Atty. Gen. Op. No. 17-0057.

²³ La. R.S. 33:4711.