

Who has custody of library fund and what about library districts?

Initial questions: Can public libraries have custody of the library fund and function as the library's bookkeeper? - See the September 1, 1998 from Jim Scheier to Karen Strege. New questions – Can a public library contract with another entity to provide payroll for their employees? Can a public library district function as the library's bookkeeper?

Response from Jim Scheier, February 6, 2012: The memo to Karen Strege stated that a public library can not have “custody” of the library fund, which is funded with the proceeds of a tax levied by the governing body of the city or county, as authorized by Montana Code Annotated § 22-1-304. Montana Code Annotated § 22-1-304(4) provides that money “may not be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.” This suggests that the city or county treasurer has actual custody of the library fund, but the library board of trustees has the exclusive control of the expenditure of the library fund. Thus, although the city or county has custody of the fund, only the library board of trustees can authorize or order payment from the fund.

Based on these statutory provisions, in my opinion the library board of trustees would have the authority to contract with another entity to actually provide the payroll services for the library employees. The board of trustees has the exclusive control of the “operation and care of the library,” (Mont. Code Ann. § 22-1-309), and may “exercise such . . . powers . . . necessary for the effective use and management of the library” (Mont. Code Ann. § 22-1-309(9)). In exercising these powers, if the board of trustees determines that it is appropriate to contract out payroll services to another entity, it appears it has the authority to do so.

Your other question is whether a public library district can function as the library's bookkeeper. For purposes of your question I will assume you are referring to a public library that is part of the district. The creation and administration of library districts is authorized in Montana Code Annotated §§ 22-1-701 to 22-1-716. A library district may contain the entire territory of a county, the territory of part of a county, or territory in more than one county. Mont. Code Ann. § 22-1-701(2). The governing body of a city or county with an existing public library may, following a public hearing, adopt a resolution determining that the territory served by the library either shall or shall not be included in the public library district. Mont. Code Ann. § 22-1-705(1). The board of trustees of a public library district has the authority to operate and maintain library property within the district, prepare annual budgets as required by the county governing body or bodies, employ or contract with administrative, professional, or other personnel necessary for operation of the district, and contract with other entities to provide or receive library services and to pay out or receive funds for those library services. Mont. Code Ann. § 22-1-707. These provisions would seem to authorize a public library that is within the library district to contract with the district to function as the library's bookkeeper.