

OPINION
63-73

January 14, 1963 (OPINION)

COUNTIES

RE: County Library Service - No Authority

This is in reply to your letter of January 7, 1963, requesting an opinion of this office on the question: "Can the County Commissioners make an appropriation for county library service without the 51 percent of the voters signing a petition requesting it?"

You inform us further that Grant County would be willing to provide library service in Grant County by contract with Morton County. The appropriation, therefore, would be made from the general fund of the county.

Looking to section 11-11-11 of the North Dakota Century Code, we find the general duties of the board of county commissioners listed as follows:

GENERAL DUTIES OF BOARD OF COUNTY COMMISSIONERS. The board of county commissioners:

1. Shall superintend the fiscal affairs of the county;
2. Shall supervise the conduct of the respective county officers;
3. May cause to be audited and verified the accounts of all officers having the custody, management, collection, or disbursement of any moneys belonging to the county or received in their official capacity;
4. On the first Monday of July annually, shall cause to be made a full and accurate statement of the assessments, receipts, and expenditures of the county for the preceding year and the taxes receivable, accounts receivable, and the indebtedness of the county at the end of the fiscal year, and it shall have the same published in at least one newspaper in the county. If there is not newspaper in the county the same shall be posted at the usual meeting place of the board."

Looking to section 11-11-14 of the North Dakota Century Code, we find the general powers of the board of county commissioners listed as follows:

POWERS OF BOARD OF COUNTY COMMISSIONERS. The board of county commissioners shall have the following powers:

1. To institute and prosecute civil actions for and on behalf

- of the county and in its name;
2. To make all orders respecting property of the county;
 3. To levy a tax not exceeding the amount authorized by law;
 4. To liquidate indebtedness of the county;
 5. To construct and repair bridges and to open, lay out, vacate, and change highways in the cases provided by law. But the board may not contract for the construction of bridges costing more than one hundred dollars without first complying with the provision of chapter 24-08 of the title Highways, Bridges, and Ferries;
 6. To establish election precincts in the county;
 7. To appoint the inspectors of election in unorganized townships;
 8. To equalize the assessments of the county in the manner provided by law;
 9. To furnish to the county officers the necessary telephone, postage, telephone and telegraph tolls, and all other things necessary and incidental to the performance of the duties of their respective offices to be paid out of the county treasury;
 0. To furnish a fireproof safe in which to keep all the books, records, vouchers, and papers pertaining to the business of the board;
 1. To dispose of property of the county in the manner provided in chapter 11-27;
 2. To purchase lands in lieu of those sold;
 3. To grant to any person the right of way for the erection of telephone lines, electric light systems, or gas or oil pipeline systems over or upon public grounds, county streets, roads, or highways; and
 4. To do and perform such duties as are prescribed by law."

Going through these statutory provisions, we find nothing that could be construed as allowing establishment of public library service. Looking to section 40-3810 of the North Dakota Revised Code of 1943, we find general provisions made for establishment of library service from general fund money by "political subdivisions." However, we note that as amended by the 1945 Session Laws, the provisions thereof as now shown in section 40-38-10 of the North Dakota Century Code limit all such authority to cities and villages.

It is therefore our opinion that your question must be answered in the negative.

HELGI JOHANNESON

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