

1992-1993 Ky. Op. Atty. Gen. 2-69, Ky. OAG 92-43, 1992 WL 540964 (Ky.A.G.)

Office of the Attorney General
Commonwealth of Kentucky

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March 19, 1992

Re: Whether Jail Must Have Law Library; Whether Water District or Fiscal Court May Make Donations to Civic
Organizations Formed For Purpose of Attracting Business or Industry, etc.

AGO Corr.

No. 92-(0)-5.

Hon. Kerry B. Harvey
Marshall County Attorney
Post Office Box 472
Benton, Kentucky 42025

Dear Mr. Harvey:

By letter of December 27, 1991, you pose several questions as indicated above.

Marshall County, you explain, will soon complete a new detention facility. A question has arisen concerning what is required in terms of a law library (for prisoner use). You indicate that representatives of several law publishing companies have indicated an extensive and costly library is required.

The answer to this question will probably depend upon the number of prisoners typically housed, the length of the term served in the facility by the average prisoner, as well as whether other alternate meaningful means of access to the courts is provided. It might be that, if the facility is small, the average term of sentence served there is short, and an alternate meaningful means of accessing the courts is provided, an extensive criminal law library, if any, will not be necessary. You perhaps should consult with the Corrections Cabinet's Division of Local Facilities, 502-564-7290, for detailed advice on this question. Discussion below may also aid you in determining jail law library requirements.

In [Fluhr v. Roberts, 460 F.Supp. 536, 538 \(W.D.Ky.1978\)](#) (copy enclosed), the court set out a list of materials required in the case of a facility with a daily population of 400 to 640 inmates having an average duration of confinement of about one week (presumably far different from the Marshall County facility). The Kentucky Jail Policy and Procedures Manual (Kentucky Corrections Cabinet, 1983), in section XII-200 (copy attached), describes a mechanism for making legal reference materials available to a prisoner. Again, we suggest consulting with the Corrections Cabinet concerning what legal library materials, if any, might be required in view of the facts particular to the Marshall County detention facility.

Concerning whether a water district created pursuant to KRS Chapter 74 may make certain donations, we note that such districts may be created pursuant to [KRS 74.010\(1\)](#) “for the purpose of furnishing a water supply to the citizens of the county.” In our view, a donation of water district funds, by a water district created pursuant to KRS Chapter 74, “to civic organizations such as the chamber of commerce or an independent non-profit organization formed for the purpose of attracting business and industry to the county in which the water district operates,” would involve an expenditure inconsistent with the statutory purpose of a water district, and thus cannot be lawfully made. As a creature of statute, a water district created pursuant to KRS Chapter 74 may expend funds only in keeping with its statutory purpose, or express statutory authorization. A review of KRS Chapter 74 does not reveal an authorization for a donation of the type you have asked about by a water district created pursuant to that chapter.

*2 You also ask whether the Marshall County Fiscal Court would have the authority to make contributions to a chamber of commerce or an independent non-profit organization for the purpose of attracting business and industry to the county, and, whether the fiscal court would have the authority to contribute to “various community activities such as partially funding extracurricular activities for certain school groups.”

A fiscal court, pursuant to [KRS 67.083\(3\)\(x\)](#), has the authority to appropriate funds to promote economic development in the county, either directly or in cooperation with public or private agencies. However, in our view, a mere “donation” to an entity, such as a chamber of commerce or a non-profit organization formed for the purpose of attracting business and industry to the county directly, without terms or conditions as to its application to promote economic development, is not a proper expenditure pursuant to [KRS 67.083\(3\)\(x\)](#).

A fiscal court can, consistent with [KRS 67.083\(3\)\(x\)](#), subject to proper budgeting, documentation, and approval, and under terms assuring direction of funds on an accountable basis to specific efforts to promote economic development, make monies available to a chamber of commerce or an independent non-profit organization formed for the purpose of attracting business and industry. Again, in our view, a mere “donation” cannot be made.

Your question concerning whether a fiscal court may “contribute” to “various community activities, such as partially funding extracurricular activities for certain school groups” is too general for us to provide a definitive answer.

One issue is whether a given “contribution” would be for a purpose for which a fiscal court is authorized to appropriate funds, and another is the fact that mere “contributions” or “donations” by a fiscal court, are not allowable since they lack necessary controls to assure expenditure in connection with a statutorily authorized function on an accountable basis. You may want to review Opinion of the Attorney General (OAG) 64-252 (copy enclosed), in which this office found that a fiscal court could not donate to a chamber of commerce for a folk festival. In OAG 79-129 (copy enclosed), this office found that a fiscal court could not donate funds for a high school band trip. In OAG 85-99 (copy enclosed), we found that a fiscal court could not donate funds to volunteer fire departments in different cities within the county. The opinions provided may aid you in evaluating specific circumstances with which you are concerned.

Sincerely,
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Attorney General

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