

TO: Colorado Public Library Board Chairs and Directors  
FR: Eugene Hainer, Assistant Commissioner, Colorado Dept of education, State Library  
RE: Notice of revised library statutes, effective August 2009

September 14, 2009

**BOARD CHAIRS AND DIRECTORS:**

This letter is to make you aware of important changes in the Colorado Revised Statutes section 24-90-100, et seq, otherwise known as the Library Law, which resulted from the passage and signing of HB09-1072 earlier this year.

The bill, drafted by members of the Colorado Association of Libraries, along with legal experts, was designed to clarify several issues that had developed through previous statute changes.

Attached for your information:

- 1) An outline of the changes, most of which apply to library districts. The full set of statutes showing added and deleted wording can be viewed online at [www.ColoradoStateLibrary.org/LibraryLaw](http://www.ColoradoStateLibrary.org/LibraryLaw).
- 2) A summary of the statutory sections related to the main powers and duties of the board of trustees of library districts and non-home rule cities and counties. (Home rule charters often mandate a more "advisory" set of responsibilities for library boards.) This provides a reminder of the responsibilities entrusted to library board members that everyone may not be fully aware of.

**SPECIFIC PROVISIONS FOR LIBRARY DISTRICTS ONLY**

Two new provisions call for library districts to provide the State Library with copies of the library district bylaws and a map indicating the boundaries of the district's legal service area.

The call for bylaws can be met by mailing one copy of the library district bylaws or by emailing a link to the bylaws if available on your district's website before **January 1, 2010** to the contact provided below.

The State Library is working on the second by developing boundary maps that may be compared to any currently held by the district and, if accurate, be used to satisfy the requirement. These will be provided to you when completed, along with further information about addressing this obligation.

On behalf of the staff of the State Library, I thank you for the work you do, and trust you will find these materials helpful in fulfilling your important role of assuring quality library services to the public you serve.

If you have questions, or would like a CSL staff member to attend a board meeting to go over specific portions of the law, please use the contact information below to reach us.

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**Colorado Library Law  
Summary of 2009 Statute Revisions**

HB09-1072 was signed into law and became effective in August, 2009. It clarifies wording from earlier versions of the library law, particularly for library districts.

Following is a summary of the changes and additions, along with the specific statute section where the change occurred.

<b>CHANGES TO WORDING FOR CLARIFICATION</b>
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- 24-90-103 (4.5)** Clarifies that the legal service area population estimates shall be collected and reported according to guidelines developed by the state library.
- 24-90-103 (5)** Clarifies that the term “legislative body” includes a board of county commissioners, a city council, a town board of trustees or a library board of trustees, depending on the context.
- 24-90-103 (6)** Clarifies that a library district is “its own taxing authority” and deletes the word “maintained” from the definition of a library district to make it clear that governmental units establish, but do not maintain a library district.
- 24-90-103 (15)** Clarifies that the terms “registered elector” and “elector” mean the same thing.
- 24-90-107 (2) (a)** Clarifies that one public hearing shall be held by any governmental unit forming the public library. (Previous versions called for public hearings without saying how many.)
- 24-90-108 (2) (c)** Clarifies the *initial* method of appointment of the board of trustees by one governmental unit or more than one governmental unit through an appointing committee; clarifies that the appointing committee is comprised of members of the establishing legislative body.
- 24-90-109 (1)** Clarifies the policy governance role of the board of trustees and administrative role of the library director, and that the board adopts bylaws for its own guidance and policies for the governance of the library.

The board is charged with employing a director (referred to as ‘librarian’ in previous versions).

Clarifies the director’s duties to include:

- (i) Implementing the policies adopted by the board of trustees;
- (ii) Recommending employees for hiring by the board of trustees;
- (iii) Performing all other acts necessary for the orderly and efficient management and control of the library.

This section *eliminates* from the list of board responsibilities language that related to the administrative responsibility of the library director, such as “supervision and care,” “prescribe [employee] duties and fix their compensation,” “authorize,” and “orderly and efficient management and control.”

- 24-90-109 (1) (d)** Clarifies that the board has the authority and responsibility to certify the mill levy amount (not just its sums) to the governmental unit or units it serves, and to submit a budget as required by law.
- 24-90-109 (2)** Clarifies, for each type of public library, which legislative body or bodies are to receive the library's annual report.
- 24-90-109 (4) & 24-90-112 (1)(b)(III)** These two sections both authorize the board of trustees to request an election be held to alter the maximum tax levied for the library, and then require the respective legislative body to cause the vote to be held. (In previous versions, the authority to request was in one section, and the requirement for the legislative body to cause a vote to be held was in another.)
- 24-90-112 (2) (c)** Changes the word "bond" to "insurance" when the treasurer of the board of trustees requests custody of library funds because the meaning of the word "insurance" is more commonly understood.

<b>NEW PROVISIONS ADDED FOR LIBRARY DISTRICTS</b>
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- 24-90-105 (1) (m) & 24-90-109 (1) (p.5)** Requires a library district is to keep a map of its boundaries on file with the State Library and the State Library is required to serve as the repository.
- 24-90-107 (2) (e) & 24-90-107 (3) (h)** The first section describes *formation* of a library district by resolution or ordinance, and the second section describes *formation* by petition.
- Both sections define the provisions to be included in the agreement that is created as part of the formation of a library district and add these specific provisions: matters related to the transition to a library district (such as ownership of library real and personal property, personnel and provision of administrative services during the period of transition to a library district); the method of trustee selection; and such other necessary terms and conditions, as determined by the parties.
- These sections also allow the 90 day time frame for completing these agreements to be extended by mutual agreement.
- 24-90-105 (1) (m) & 24-90-109 (1) (a)** Both sections state that a copy of the bylaws must be filed with the State Library.
- 24-90-109 (1)** Adds to the previously existing duty of the Board to create a repository for school collective bargaining agreements, the ability to provide electronic copies as well as print.
- 24-90-112 (2) (a)** Removes an outdated reference to issuing "warrants" (instead of checks) for payment of expenditures from the public library fund.

**24-90-108 Powers and duties of library boards**

Statute language	Rough meaning*
<p>(1) The management and control of any library established, operated, or maintained under the provisions of this part 1 shall be vested in a board of not fewer than five nor more than seven trustees. Appointees to the library board of trustees shall be chosen from the residents within the legal service area of the library.</p>	<p>1) Boards shall have 5 – 7 appointed members who live in the legal service area.</p>
<p>(2) (a) In cities and towns the trustees shall be appointed by the mayor with the consent of the legislative body.</p> <p>(b) In counties the trustees shall be appointed by the board of county commissioners.</p> <p>(c) In a library district established by more than one governmental unit, the legislative body of each participating governmental unit shall appoint two of its members to a committee that shall appoint the initial board of trustees. Thereafter, any such legislative body or bodies may either continue such a committee or delegate to the board of trustees of the library district the authority to recommend new trustees. Trustee appointments shall be ratified by a two-thirds majority of the legislative body; except that the failure of a legislative body to act within sixty days upon a recommendation shall be considered a ratification of such appointment.</p> <p>(d) In school districts the trustees shall be appointed by the school board.</p> <p>(e) For joint libraries, the trustees shall be appointed by the legislative bodies of the participating governmental units unless otherwise specified in the contract.</p>	<p>a) The mayor appoints boards in cities and towns, with approval by the legislative body.</p> <p>b) County commissioners appoint county library boards.</p> <p>c) Initial library district boards are appointed through a defined committee. The process can continue after that, or authority is granted to the board to recommend new trustees. 2/3 ratification is needed within 60 days. After that ratification is automatic.</p> <p>d) The school board appoints trustees of a library under school jurisdiction.</p> <p>e) Joint library trustees are appointed by the legislative bodies of participating entities.</p>
<p>(3) (a) The first appointments of such boards of trustees shall be for terms of one, two, three, four, and five years respectively if there are five trustees, one for each of such terms except the five-year term for which two shall be appointed if there are six trustees, and one for each of such terms except the four-year and five-year terms for each of which two shall be appointed if there are seven trustees. Thereafter, a trustee shall be appointed for the length of term specified by the legislative body or, in the case of a library district, by the bylaws adopted by its board of trustees. The number of terms a trustee may serve shall be specified by the legislative body or, in the case of a library district, by the bylaws adopted by its board of trustees.</p> <p>(b) Vacancies shall be filled for the remainder of the unexpired term as soon as possible in the manner in which trustees are regularly chosen.</p>	<p>a) Defines the length of terms when a library is first formed; term length depends on the number of trustees.</p> <p>After the first appointment the terms are determined by bylaws or the legislative body, depending on library type.</p> <p>b) Fill an unexpired term vacancy as soon as possible.</p>
<p>(4) A trustee shall not receive a salary or other compensation for services as a trustee, but necessary traveling and subsistence expenses actually</p>	<p>Trustees aren't paid, except for expenses.</p>

Statute language	Rough meaning*
incurred may be paid from the public library fund.	
(5) A library trustee may be removed only by a majority vote of the appointing legislative body or bodies, but only upon a showing of good cause as defined in, but not limited to, the bylaws adopted by the board.	Removal for good cause of a trustee needs a majority vote of the appointing body(ies).
(6) The board of trustees, immediately after their appointment, shall meet and organize by the election of a president and a secretary and such other officers as deemed necessary.	After appointment, a board needs to elect officers.

**24-90-109**

Statute language	Rough meaning*
<p>(1) The board of trustees shall:</p> <p>(a) Adopt such bylaws, rules, and regulations for its own guidance and policies for the governance of the library as it deems expedient. The bylaws shall include, but not be limited to, provisions for the definition of good cause to be applied in the removal of a trustee pursuant to section 24-90-108 (5); designation of those officers to be appointed or elected and the manner of such appointment or election; rules and regulations for the conducting of meetings; rules for public participation in meetings; and procedures for amending the bylaws. The bylaws of a library district shall further provide for the length and number of terms of board members. A copy of the bylaws shall be filed with the legislative body of each participating governmental unit and the state library in accordance with section 24-90-105 (1) (m).</p> <p>(b) Have custody of all property of the library, including rooms or buildings constructed, leased, or set apart therefore;</p> <p>(c) Employ a director and, upon the director's recommendation, employ such other employees as may be necessary. The duties of the director shall include, but not be limited to:</p> <p style="padding-left: 20px;">(I) implementing the policies adopted by the board of trustees pursuant to paragraph (a) of subsection (1) of this section;</p> <p style="padding-left: 20px;">(II) recommending individuals for employment by the board of trustees; and</p> <p style="padding-left: 20px;">(III) performing all other acts necessary for the orderly and efficient management and control of the library.</p> <p>(d) Submit annually a budget as required by law and certify to the legislative body of the governmental unit or units that the library serves the amount of the mill levy necessary to maintain and operate the library during the ensuing year;</p> <p>(e) (I) In county and municipal libraries, have exclusive control and spending authority over the disbursement of the library funds as appropriated by its legislative body, including all assets of the public library fund, as set forth in section 24-90-112 (2) (a); (II) In library districts, adopt a budget and make appropriations for the ensuing fiscal year as set forth in part 1 of article 1 of title</p>	<p>The board of trustees shall ...</p> <p>a) adopt bylaws, rules, and regulations to guide the board. It adopts policies to govern the library, as needed.</p> <ul style="list-style-type: none"> <li>– Bylaws need to include a definition of 'good cause' for removing a board member; designated officers to be elected or appointed by the board; rules for conducting meetings;</li> <li>– rules for the public's participation at meetings; procedures to amend the bylaws.</li> <li>– File a copy of the bylaws with the legislative body and the State Library.</li> </ul> <p>b) Have custody of all library property.</p> <p>c) Employ a director and other staff recommended by the director. The director's duties include implementing adopted board policies; recommending staff for employment; doing what's needed for managing the library efficiently.</p> <p>d) Submit an annual budget. Certify the mill levy amount necessary to operate the library for the next year.</p> <p>e) I) have exclusive spending authority over funds appropriated and disbursed in county and municipal libraries, including assets of the public library fund; II) adopt a budget in library districts according to CRS title 29, article 1, part 1 and have</p>

Statute language	Rough meaning*
<p>29, C.R.S., and have exclusive control and spending authority over the disbursement of library funds as set forth in section 24-90-112 (2) (a);</p>	<p>exclusive control and spending authority over disbursement of library funds.</p>
<p>(f) Accept such gifts of money or property for library purposes as it deems expedient;</p> <p>(g) Hold and acquire land by gift, lease, or purchase for library purposes;</p> <p>(h) Lease, purchase, or erect any appropriate building for library purposes and acquire such other property as may be needed therefore;</p> <p>(i) Sell, assign, transfer, or convey any property of the library, whether real or personal, which may not be needed within the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve, and lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same. The board, prior to the conveyance of such property, shall make a finding that the property may not be needed within the foreseeable future for library purposes, but no such finding shall be necessary if the property is sold or conveyed to a state agency or political subdivision of this state.</p> <p>(j) Borrow funds for library purposes by means of a contractual short-term loan when moneys are not currently available but will be in the future. Such loan shall not exceed the amount of immediately anticipated revenues, and such loan shall be liquidated within six months.</p> <p>(k) Authorize the bonding of persons entrusted with library funds;</p> <p>(l) (I) In the case of a county or municipal library, submit financial records for audit as required by the legislative body of the appropriate governmental unit; or (II) In the case of any library district, conduct an annual audit of the financial statements of the district.</p> <p>(m) adopt a policy for the purchase of library materials and equipment on the recommendation of the librarian;</p> <p>(n) hold title to property given to or for the use or benefit of the library, to be used according to the terms of the gift;</p> <p>(o) have the authority to enter into contracts;</p> <p>(p) maintain a current, accurate map of the legal service area and provide for such map to be on file with the state library;</p> <p>(q) Receive the true and correct copies of all school district collective bargaining agreements submitted pursuant to the "Colorado School Collective Bargaining Agreement Sunshine Act", section 22-32-109.4, C.R.S., and create an electronic or physical repository for all of said current collective bargaining agreements at the library that is available to the public for inspection during regular business hours in a convenient and identified location.</p>	<p>f) accept money and property gifts as expedient;</p> <p>g) hold and acquire land for the library</p> <p>h) lease, purchase, or build library buildings as needed</p> <p>i) Sell, assign, transfer, or convey library real or personal property that may not be needed in the future; lease any property pending sale under a lease agreement to purchase. Before conveying such property a finding that the property won't be needed in the future needs to be made by the board unless the property is sold or conveyed to a state agency or political subdivision.</p> <p>j) Borrow funds with a short-term loan that doesn't exceed anticipated revenues and liquidate the loan within 6 months.</p> <p>k) Authorize bonding of people who deal with library funds.</p> <p>l) 1) Submit financial records for audit (county and municipal libraries); 2) annually audit the financial statements (library district)</p> <p>m) Adopt a policy for buying library materials on the director's recommendation.</p> <p>n) Hold title to property given to the library, according to terms of the gift.</p> <p>o) Have authority to enter into contracts.</p> <p>p) Maintain, and file with the State Library a map of the library legal service area.</p> <p>q) Keep physical or electronic records of any collective bargaining agreements received from school districts for public inspection.</p>
<p>(2) At the close of each calendar year, the board of trustees of every public library shall make a report to the legislative body of the town or city, in the case of a municipal library or library district formed by a municipality, or the board of county commissioners of</p>	<p>(2) Report at the end of each calendar year to the library's legislative body (depending on library type as defined in the law) showing the condition of its trust during the year, plus the</p>

Statute language	Rough meaning*
<p>each county having territory within the legal service area, in the case of a county library or library district, showing the condition of its trust during the year, the sums of money expended, and the purposes of the expenditures and such other statistics and information as the board of trustees deems to be of public interest.</p>	<p>sums of money expended and purposes of the expenditure, along with other information the board deems to be of public interest.</p>
<p>(2.5) At the close of each calendar year, the board of trustees of every public library shall make a report to the state library in the form of a response to a survey to be designed and administered by the state library. The report shall contain such other statistics and information as may be required by the state library.</p>	<p>(2.5) Respond at the end of the calendar year to a survey provided by the state library that will serve as a report on statistics and information about the library.</p>
<p>(3) The board of trustees of a public library or the governing board of any other publicly-supported library, under such rules and regulations as it may deem necessary and upon such terms and conditions as may be agreed upon may allow nonresidents of the governmental unit which the library serves to use such library's materials and equipment and may make exchanges of books and other materials with any other library, either permanently or temporarily.</p>	<p>(3) Public library trustees, or the governing board of any other publicly-supported library may allow nonresidents served by the library to use materials and equipment of the library according to rules and regulations that may be needed; permanent or temporary exchanges of books and materials may occur between libraries.</p>
<p>(4) In addition to the powers and duties of a board of trustees specified in subsection (1) of this section, the board of trustees of a school district supported public library, municipal library, county library, or a library district shall have the authority to request of the board of education in the case of a school district supported public library, the legislative body of the city or town in the case of a municipal library, or the board of county commissioners in the case of a county library or library district that an election be held to alter the maximum tax levied to support the school district supported public library, municipal library, county library, or library district pursuant to section 24-90-112 (1) (b) (III), in which case such board of education, legislative body, or board of county commissioners shall cause the vote to be held. For purposes of this subsection (4), "school district supported public library" means any library solely established and maintained by a school district for which such school district began levying a tax before the enactment of the "Colorado Library Law" on July 1, 1979. For all other purposes under this article, a school district supported public library shall be deemed a public library.</p>	<p>(4) Trustees of any type of public library have the authority to ask the legislative body (as defined) that an election to change the maximum tax levied for the library be held and the legislative body shall cause the vote to be held. A library established and maintained by a school district before July 1, 1979 is a public library for the purpose of this article.</p>

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\* Not intended as a legal interpretation or advice. Consult a lawyer on questions related to the full meaning and application of any statutes.