LIBRARIES -- Finances (filing of annual financial reports)

STATE COMPTROLLER-- Powers and Duties (receipt of annual financial reports from public libraries)

EDUCATION LAW, §263; GENERAL MUNICIPAL LAW, §30(3): Section 263 of the Education Law does not operate to relieve public libraries from the requirement that annual financial reports be filed with the State Comptroller pursuant to section 30 of the General Municipal Law.

This is in response to your inquiry concerning the filing of annual financial reports by the treasurers of public libraries. Specifically, you ask whether the provisions of section 263 of the Education Law requiring public libraries to file annual reports with the Board of Regents relieve those libraries from the requirement, under section 30(3) of the General Municipal Law, that the treasurer of each public library file an annual report of financial transactions with the Office of the State Comptroller.

Section 263 of the Education Law provides the following:

Every library or museum, other than a school library, which enjoys any exemption from taxation or receives state aid or other privilege not usually accorded to business corporations shall make the report required by section two hundred fifteen of this chapter, and such report shall relieve the institution from making any report now required by statute or charter to be made to the legislature or to any department, court or other authority of the state. These reports shall be summarized and transmitted to the legislature by the regents with the annual reports of the university. (emphasis added)

Under section 34 of the General Construction Law, the term "now," as used in a statute referring to other laws in force, "relates to the laws in force . . . immediately before the taking effect of such provision." In addition, section 110 of the General Construction Law states that the provisions of General Construction Law are "applicable to every statute unless its general object, or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter" (see Property Clerk, New York City Police Department v Seroda, 131 AD2d 289, 521 NYS2d 233; see also 1990 Opns St Comp No. 90-31, p 73).

Section 263 of the Education Law was last amended by chapter 273 of the Laws of 1950, which became effective April 1, 1950. There is nothing in the language of section 263 or in the legislative history thereof that would indicate that the State Legislature intended the word "now", as used in that section, to have a meaning other than that specified in section 34 of the General Construction Law.
Consequently, it is our opinion that section 263 of the Education Law relieves public libraries of the obligation of filing only those reports that were required on April 1, 1950, the date upon which the last amendment to section 263 became effective (see also 1980 Opns Atty Gen 47).

Section 30 of the General Municipal Law provides for the filing of financial reports with the Office of the State Comptroller. Under subdivision 3, the treasurer of each public library established pursuant to section 255 of the Education Law must file an "annual report of financial transactions" with the State Comptroller. The requirement that public libraries file annual reports with the State Comptroller was enacted, at the request of the State Comptroller, in 1973 in conjunction with an amendment that authorized the trustees of public libraries to require that moneys received from taxes or other public sources be paid to the treasurer of the public library (see L 1973, ch 200). The purpose of the amendment was to require "public libraries to make an annual report of their fiscal affairs to the Comptroller's office," and to allow "the Comptroller to audit those public libraries which receive the full amount raised by the municipalities for their support" (Memorandum, dated April 20, 1973, from Alfred W. Haight, First Deputy Comptroller, to the Counsel to the Governor; see also memorandum, dated April 4, 1973, from Robert D. Stone, Counsel and Deputy Commissioner for Legal Affairs, State Education Department, to the Counsel to the Governor, stating that: "[t]he proposed amendment would allow the trustees of public libraries to demand that library funds be paid over to the library treasurer who would then be responsible for submitting an annual financial report to the Comptroller." ). Our examination of the legislative history of the 1973 amendment did not disclose any reference to section 263 of the Education Law or any indication that the Legislature intended a result other than the imposition of a new reporting requirement on public libraries.

Given that the exemption from filing reports with other agencies granted under section 263 of the Education Law is limited to those reports that were required by laws enacted on or before April 1, 1950, and that the clear intent of the 1973 amendment to section 30(3) of the General Municipal Law was to require the filing of annual financial reports by public libraries, it is our opinion that section 263 of the Education Law does not operate to relieve public libraries from the requirement that annual financial reports be filed with the State Comptroller pursuant to section 30 of the General Municipal Law. [1]

October 20, 1997
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Deputy Comptroller

1. We note that where a library has not appointed a separate treasurer and the municipal or school district treasurer has custody of library moneys, the municipal or school district treasurer would be responsible for filing the library annual financial report required by section 30 of the General Municipal Law (see 1986 Opns St Comp No. 86-54, p 86). Also, it has been our opinion that since the term "financial transactions," as used in section 30(3), is not limited to those transactions involving public source moneys, the annual financial report filed by a public library should include information on both public and private source moneys (1988 Opns St Comp No. 88-76, p 145).