

APPENDIX C

Georgia Library Law

20-5-40.

- (a) The governing authority of any county or municipality may establish a public library system. Any public library established pursuant to this part shall be a tax-exempt institution.
- (b) A public library may be established in the following manner:
- (1) By resolution or act, at the discretion of the governing authority, of any county or municipality, or any combination thereof;
 - (2) By approval of the voters of any county or municipality in a referendum election on the question of the establishment of a public library as provided in this paragraph. Upon a written petition containing 35 percent of the registered and qualified voters of a municipality or county being filed with the appropriate governing authority, the governing authority shall be required to hold and conduct a special referendum election for the purpose of submitting to the qualified voters of the municipality or county the question of whether or not a public library, as provided for in this part, shall be authorized. In the event a majority of the persons voting in the election vote in favor of the public library, then the governing authority of the municipality or county shall establish a public library as provided in this part. Otherwise, the governing authority shall have no authority to do so. Following the expiration of two years after any election is held which results in disapproval of a public library, as provided in this part, another election on this question shall be held if another petition, as provided in this paragraph, is filed with the appropriate governing authority; or
 - (3) By contractual agreement between the governing authorities of any county or municipality.

20-5-41.

Each library system shall be governed by a board of trustees. Each system shall have a governing board of trustees but may have other affiliated boards of trustees for member libraries. The county board of library trustees shall exercise authority in a county system. The regional board of library trustees shall exercise authority in a multicounty system.

20-5-42.

- (a) A county board of trustees shall consist of at least one appointee from each governmental agency financially supporting the library on a regular basis. Appointments shall be made in writing pursuant to the constitution and bylaws of the library system, shall be transmitted to the appointee and to the library, and shall state the length of term and expiration date of the appointment.
- (b) A regional board of library trustees shall consist of trustees serving on member county boards who are appointed to the regional board by each county board for a term specified in writing pursuant to the constitution and bylaws of the library system.
- (c) Board members shall serve staggered terms for continuity of service.
- (d) Board members shall be removed for cause or for failure to attend three consecutive meetings pursuant to the library system's constitution and bylaws or the local constitution and bylaws.
- (e) Vacancies shall be filled in the same manner as appointments are made. If a vacancy occurs prior to the expiration of a trustee's term, the new appointee shall complete the unexpired term.

(f) Members of the governing authority of any county, municipality, or governmental agency financially supporting the library shall be eligible for appointment and service as members or as ex officio members of the board of trustees of any library or library system. No such governing authority shall appoint a majority of its members to the board of trustees of any library or library system nor shall a majority of the board of trustees of any library or library system consist of members of the governing authority of any single county, municipality, or governmental agency.

(g) Public library system boards of trustees may provide for ex officio board membership in the system constitution and bylaws.

20-5-43.

The board of trustees shall have duties and responsibilities which include but are not limited to the following:

- (1) To employ a library director who meets state certification requirements and such other employees as necessary upon the recommendation of the library system director; provided, however, that the board shall be authorized to delegate employment of staff members to the library system director;
- (2) To approve budgets prepared by the library system director and assume responsibility for the presentation of the library's fiscal needs to the supporting agencies;
- (3) To attend board meetings;
- (4) To establish policies governing library programs, including rules and regulations governing the use of the library;
- (5) To set policy for the administration of gifts of money and property;
- (6) To present financial and progress reports to governing officials and to the public;
- (7) To notify the appropriate authorities of a vacancy on the board so that a person may be appointed to complete unexpired or full terms; and
- (8) To notify the library system director, in advance, of all meetings of library boards and board committees.

20-5-44.

Members of the board of trustees shall receive no compensation; provided, however, that such members may be reimbursed for any reasonable and necessary expenses incurred in the performance of library business or if stipulated in terms of any bequest or gift. Dues or fees for membership in local, state, regional, and national library associations may be paid from operating funds in accordance with the constitution and bylaws of the library system.

20-5-45.

Every public library system shall have a director. Any person appointed as director of a public library system must hold at least a Grade 5(b) Librarian's Professional Graduate Certificate, as defined by the State Board for the Certification of Librarians; provided, however, that any person who was serving as acting director of a public library system as of July 1, 1984, shall be authorized to continue to serve as director. The director shall be appointed by the board of trustees and shall be the administrative head of the library system under the direction and review of the board. The director of a library system shall have duties and responsibilities which include but are not limited to the following:

- (1) To recommend for employment or termination other staff members, as necessary, in compliance with applicable laws and the availability of funds and to employ or terminate other staff members if so authorized by the library board;

- (2) To attend all meetings called by the Office of Public Library Services of the Board of Regents of the University System of Georgia or send a substitute authorized by the office director;
- (3) To prepare any local, state, or federal annual budgets;
- (4) To notify the board of trustees and the Office of Public Library Services of the Board of Regents of the University System of Georgia of any failure to comply with:
 - (A) Policies of the board;
 - (B) Criteria for state aid;
 - (C) State and federal rules and regulations; and
 - (D) All applicable local, state, or federal laws;
- (5) To administer the total library program, including all affiliated libraries, in accordance with policies adopted by the system board of trustees; and
- (6) To attend all meetings of the system board of trustees and affiliated boards of trustees or to designate a person to attend in his or her place.

20-5-46.

The library system shall make such reports as deemed necessary by local and state funding agencies. In every case at least an annual report of activities, income, and expenditures shall be filed with each funding agency.

20-5-47.

- (a) The board of trustees of each county and regional library shall have a written constitution and bylaws stating policy which shall be approved by the board. Such constitution and bylaws shall be drafted in accordance with the current edition of the *Handbook on Constitutions, By-laws and Contracts for Georgia Public Libraries*.
- (b) Policies stated in the constitution of the county board may not be in conflict with the policies of the constitution of the regional board and state and federal laws and regulations. The constitution of the regional board shall not be in conflict with state and federal laws and regulations.
- (c) All current constitutions and bylaws must be on file in the Office of Public Library Services of the Board of Regents of the University System of Georgia, and all amendments must be filed with the office immediately upon adoption.

20-5-48.

(a) A clear title in fee simple to an approved site on which a library facility is to be located shall be held by either the library board of trustees or the county or municipality. Title to property used for library purposes shall be vested in the library board of trustees or in that local agency which makes the major financial contribution toward construction costs. Notwithstanding any provision in this part to the contrary, any facility, the title to which currently is held by a nonprofit organization and which is now being operated by a public library board of trustees, may continue to be operated by that library board of trustees if the operation of that facility by the board of trustees meets the standards of the Office of Public Library Services of the Board of Regents of the University System of Georgia; and the title to that facility may remain in the hands of that nonprofit organization. When the composition of a library system is changed or when the library system is dissolved and the title is vested in the library board of trustees, the Office of Public Library Services of the Board of Regents of the University System of Georgia shall serve as mediator in determining ownership of property.

(b) Other property including, but not limited to, equipment and materials that were purchased with state, federal, or contract funds coming through the system budget shall be owned by the system board of trustees and shall be placed or transferred where it is most useful. Upon dissolution or significant structural change within the system, such property shall be divided on a pro rata basis according to the proportion of financial costs of property borne by the involved parties. The library system board of trustees shall furnish the financial and statistical information considered by the parties attempting to reach agreement. If the parties are unable to reach a mutually agreeable solution, the final decision of property ownership shall be made by the Office of Public Library Services of the Board of Regents of the University System of Georgia or its designee.

20-5-49.

Library systems are authorized to make and enter into such contracts or agreements as are deemed necessary and desirable. All such contracts or agreements entered into shall:

- (1) Detail the specific nature of the services, programs, facilities, arrangements, or properties to which such contracts or agreements are applicable;
- (2) Provide for the allocation of costs and other financial responsibilities;
- (3) Specify the respective rights, duties, obligations, and liabilities of the parties; and
- (4) Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriated to the proper effectuation and performance of the agreement.

No public or private library agency shall enter into any agreement itself, or jointly with any other library agency, to exercise any power or engage in any action prohibited by the Constitution or laws of this state.

20-5-50.

Each library board which handles finances must keep a current bond for an adequate amount determined by the board of trustees and recorded in the minutes on the library director, the treasurer of the board of trustees, or other officials and employees authorized to handle funds. Proof of the bond for each board must be filed with the Renewal Application for State Aid.

20-5-51.

(a) A library system shall be dissolved by a reversal of procedures followed in its original organization. A majority of the board members in a majority of the counties must agree to the dissolution of the system. One county in a multicounty system may withdraw by a reversal of the procedure by which the county became a member.

(b) If the local constitution and bylaws or participating agreement does not specify a notification period for withdrawal, the proper notice shall be sent six months prior to the end of the state fiscal year. This notice must include reasons for the withdrawal and the method by which the decision was reached and must be sent to the chairman of the system board of trustees and the system library director. The Office of Public Library Services of the Department of Technical and Adult Education must be notified of the receipt of this letter of intent within five working days.

(c) Upon dissolution or withdrawal, no further state or federal grant funds shall be paid for or to the dissolving or withdrawing unit or units until such time as the unit or units reestablish the library or libraries pursuant to this part and meet eligibility requirements for such grant funds.

(d) A multicounty regional system may elect to expel a member county upon the following conditions:

- (1) Failure of the county to maintain the agreed level of support to the regional system as in the most recent system-participating agreement; or
- (2) Failure of the county to meet criteria which may jeopardize the system's eligibility for state or federal funds.

(e) If the system's constitution and bylaws or participating agreement fails to describe a notice period for expulsion, the proper notice shall be sent not less than six months prior to the end of the state fiscal year. This notice must be sent to the chairperson of the county board of trustees, all funding agencies party to the participating agreement, the system library director, and the Office of Public Library Services of the Board of Regents of the University System of Georgia.

(f) Upon total dissolution of a library system, all property shall be disposed of as provided in this part.

20-5-52.

Any person who shall steal or unlawfully take or willfully or maliciously write upon, cut, tear, deface, disfigure, soil, obliterate, break, or destroy or who shall sell or buy or receive, knowing it to have been stolen, any book, pamphlet, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, equipment, specimen, recording, video product, microform, computer software, film, or other work of literature or object of art or the equipment necessary to its display or use belonging to or in the care of a public library shall be guilty of a misdemeanor.

20-5-53.

Any person who borrows from any public library any book, newspaper, magazine, manuscript, pamphlet, publication, recording, video product, microform, computer software, film, or other article or equipment necessary to its display or use belonging to or in the care of such public library under any agreement to return it and thereafter fails to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, video product, microform, computer software, film, or other article or equipment necessary to its display or use shall be given written notice, mailed to his last known address or delivered in person, to return such article or equipment within 15 days after the date of such notification. Such notice shall contain a copy of this Code section. If such person shall thereafter willfully and knowingly fail to return such article or equipment within 15 days, such person shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 30 days and shall be required to return such article or equipment or provide reimbursement for the replacement cost of such article or equipment.

20-5-54.

Any person who, without authority and with the intention of depriving the public library of the ownership of such property, willfully conceals a book or other public library property, while still on the premises of such public library, or willfully or without authority removes any book or other property from any public library shall be guilty of a misdemeanor; provided, however, that, if the replacement cost of the public library property is less than \$25.00, the punishment shall be a fine of not more than \$250.00. Proof of the willful concealment of any book or other public library property while still on the premises of such public library shall be prima-facie evidence of intent to violate this Code section.

20-5-55.

An agent or employee of a public library or of any department or office of the state or local government causing the arrest of any person pursuant to the provisions of this part shall not be held civilly liable for

unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested unless excessive or unreasonable force is used, whether such arrest takes place on the premises by such agent or employee; provided, however, that, in causing the arrest of such person, the public library or agent or employee of the public library had at the time of such arrest probable cause to believe that the person committed willful theft or concealment of books or other library property.

20-5-56.

All persons holding professional positions with the title of librarian must be certified by the State Board for the Certification of Librarians.

20-5-57.

Any failure to comply with the provisions of this part shall result in the forfeiture of all state and federal library aid to the system.

20-5-58.

A library system existing prior to July 1, 1984, shall have until July 1, 1989, to comply fully with the provisions of this part, and any provision to the contrary within Chapter 24 of Title 43, relating to libraries, shall be superseded by the provisions of this part.

20-5-59.

This part shall not apply to any municipal public library.