

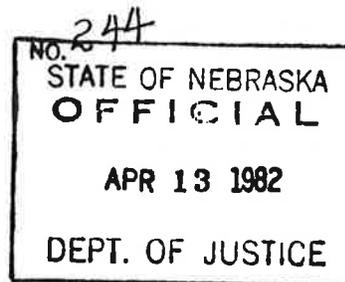
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

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April 12, 1982



Senator Ernest Chambers
Nebraska State Legislature
State Capitol
Lincoln, Nebraska 68509

Re: LB 825

Dear Senator Chambers:

This is in reply to your inquiry concerning LB 825's proposed amendment to Neb.Rev.Stat. §51-215, which would authorize libraries to recover court costs and attorneys fees in actions brought to recover penalties imposed or accruing pursuant to the bylaws or regulations of the Library Board.

As you suggest, LB 825 deals with civil actions only. As such we point out that there is nothing that we are aware of which limits the conditions which may be placed upon persons utilizing the services of public libraries. In fact, Neb.Rev. Stat. §51-205 specifically provides that a "library board shall have the power to make and adopt such by-laws, rules and regulations for its own guidance and for the government of the library and reading room as it may deem expedient."

With no limitations placed upon libraries by Neb.Rev.Stat. §51-205, we see no problem with regard to the amount of any penalty which libraries may impose upon persons violating its bylaws and regulations, or that any specific notice of such penalties be given to persons subject to them. Nor do we see any need for any advanced warning, notice or demand before initiating whatever civil action may be necessary to protect or recover its property.

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With regard to the disposition of attorneys fees authorized by LB 825, there does not appear to be any requirement that actions brought on behalf of a library must be brought by an attorney receiving a salary from public funds. By the same token there is nothing which would prevent such an attorney from initiating such actions. In any event, the disposition of attorneys fees would be in a manner agreed upon by the library, the attorney, and any public agency from whom the attorney may be otherwise receiving a salary.

In conclusion, since LB 825 deals with civil actions, intent is not an element upon which a library's right of recovery may be based.

Very truly yours,

PAUL L. DOUGLAS
Attorney General



Bernard L. Packett
Assistant Attorney General

BLP:ekj

cc: Mr. Patrick J. O'Donnell
Clerk of the Legislature