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Steven D. Hinckley  
*Penn State Law*

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# Trends

IN LAW LIBRARY MANAGEMENT AND TECHNOLOGY

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*Edited by Philip C. Berwick ♦ For academic, firm, corporate, and government law librarians*

## **Not for the Faint of Heart: Fiscal Management of Publicly Funded Law Libraries in a Time of Economic Crisis**

By STEVEN D. HINCKLEY, University of South Carolina School of Law

Law library administrators pride themselves on their ability to manage complex business and service operations in difficult economic times in ways that attempt to preserve core collections, perpetuate primary services, and protect personnel. Because we know that fiscal support for our libraries waxes and wanes in a cyclical fashion, we prepare financial contingency plans of varying degrees of formality that prioritize those parts of our operations that we deem to be essential to our missions. In times of greatest fiscal crisis, we invoke those plans to concentrate available funds on mission-critical items while retrenching on purchases and program support that we classify, in comparison, as discretionary. In theory, this planning helps us weather the worst economic times with minimal damage to the most essential elements of our libraries.

Increasingly, however, administrators in state-funded law libraries find that fiscal and governmental realities totally outside their control conspire to make even the best-laid plans ineffective at staving off serious, irreversible damage to their operations during tough economic times. In an age when political demagoguery has led Americans into a fundamental distaste for "big government," libraries dependent on public revenues find themselves at the mercy of funding authorities that have sharply diminishing revenues available to fund government operations, while still being pushed to provide broad service to their states by members of the public who expect first-rate libraries and other public services but who have little or no willingness to pay for those services. While difficult periods in our national and state economies present significant fiscal challenges for both private and public institutions, state-funded law libraries, especially, are pulled and pushed by factors that make financial planning a particularly bewildering experience for even the most seasoned administrator.

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### The Public-Private Divide

At the heart of the problem for state-funded libraries is the business model upon which public higher education is built. Although privately funded academic law libraries compete with many other departments within their organizations for funding, at least all departments within these institutions know that they are making their budget requests to people in the business of higher education, generally, and of their institutions, specifically. State-funded libraries' budget decisions, on the other hand, are ultimately made by people *in the business of state government*, to whom higher education is just another (expensive) cost center. As a result, administrators of privately funded law schools often have chances to directly influence their institutions' budget processes in ways that are unthinkable for their counterparts at public law schools. While at the University of Richmond I was expected to create and fully justify a detailed budget proposal each year, which I was invited to defend before the university's controller and occasionally to the Vice President for Business and Finance. These two individuals were the ultimate decision makers on what went into and what stayed out of the university's annual budget. These meetings were spirited, to say the least, and I believe my opportunity to advocate the law library's position directly led to many favorable budget decisions that would not have been made without those face-to-face sessions. And, while I didn't always agree with the budget priorities set by those decision makers, I respected the fact that they were weighing competing funding requests from parts of the same academic operation and making decisions based on what they considered to be soundest business considerations possible for the university.

By contrast, my experiences as the director of two state-funded law school libraries (George Mason University and the University of South Carolina) illustrate the fundamental and frustrating differences administering public, rather than private, law school libraries. The foremost frustration for law library administrators in publicly funded schools is that they depend upon people whose job is not specifically higher education, and certainly is not librarianship, to make ultimate funding decisions for library operations. Although many of us are called upon to make budget presentations to our deans and perhaps (albeit rarely) to our institutions' budget authorities, none of these people make the *final* call on funding availability in any given year, and these meetings are only

the beginning of what is typically a very convoluted state budgeting process.

### The State Budgeting Process

Although the specific officers and agencies involved in budget setting for public higher education change from state to state, the sheer number of people involved in making final funding decisions is uniformly staggering, and public law school library administrators typically experience far greater degrees of separation from ultimate fiscal decision makers than do their private school counterparts.

Once a public law school's budget request leaves its campus, it is kicked around like a football in a highly politicized game that law library administrators are not allowed to play. The process typically starts with the governor's office (most often with a stop along the way with a state's advisory council on higher education for the application of funding formulas). After the governor recommends a budget, it is referred to the appropriate legislative committees that analyze and amend the governor's requests and weigh them against often-changing revenue projections. The budget is reported out of the committees and the debate continues in the full state House and Senate for leading to passage of a state budget. The governor then signs or vetoes the budget (in whole or in part), and the process culminates with the possible legislative override of any gubernatorial veto.

In all of this, it is not hard to see how far removed state schools' law librarians are from having much direct influence on a budgetary process in which there is precious little appreciation for higher education even on the macro level. Compared to the complexity and size of the entire state budget, a state law library's budget justification is so infinitesimally small that it simply doesn't register on the radar screens of state funding authorities. There is great frustration in constructing a beautifully detailed and orderly budget submission that never makes it to the desk of the executives and legislators who hold the state's purse strings. The very complexity of state government and the call upon state revenues for an extraordinarily varied slate of services certainly make clear that not every program can be funded at the levels that their sponsors request. State-funded law library administrators, however, cannot help but find it hard to reconcile that their budgets can be slashed by people with no special expertise or investment in higher education, and who the library administrator is unlikely to be allowed to educate, negotiate with directly, or attempt to persuade.

### **The Impact on the Library**

The erratic timing of state funding decisions also is a frustrating reality for publicly funded law library administrators. Because the overwhelming majority of our expenditures are continuing in nature (serials and personnel), and will be dramatically affected absent constant support for our base expenditures and inflationary adjustments, budgetary predictability and timeliness of funding allocations are critical to all law libraries. In most private law school operations, budget submissions are made months in advance of each new fiscal year and, thanks to the relatively straightforward review and decision process possible in these institutions, funding allocations are announced shortly thereafter. Regardless of whether funding requests have been met or cuts have been made, the private law library administrator typically knows what the budget is well in advance of the start of the fiscal year, and usually can depend on that funding to remain constant throughout the year.

Publicly funded law libraries, on the other hand, cannot count on that level of predictability. Even when budget requests are made months in advance of each fiscal year, it is common for state academic law libraries to begin the year without final word on their budget allocations. Legislatures generally meet on schedules that are not harmonious with academic institutions' fiscal years, and the decisions they make are often drastically out of sync with higher education's planning and budgeting cycles. During times of state fiscal distress, it is commonplace that legislatures impose cuts on state agencies for the coming year based on their predictions of revenue shortfalls. By midyear it often is the case that deficit predictions have been woefully understated, and a second round of budget cuts is ordered. Having made painful cuts at the beginning of the year and made annual expenditures for subscriptions and other services in light of a new, reduced funding rate, it is hard to adequately explain the trauma caused to a library that must slice another 5% of its budget at the middle of the year. How is it going to implement thousands of dollars of additional cuts once contracts have been entered into and payments have been made?

### **The Search for Budget Flexibility**

No library administrator likes to admit an inability to deal with tough financial circumstances and, given half a chance, we can be very resourceful when it comes to offsetting funding shortfalls. Certainly, most private law school libraries have a good deal of flexibility to ameliorate budget problems. Year-end payments can be delayed until the following fiscal year. Some funds

can be carried over from one fiscal year to the next to offset an anticipated tight year. Contracts and licenses can be negotiated that allow prepayments or the establishing of deposit accounts during good fiscal years for goods and services provided during a following year when funds will not be available. While most libraries in privately funded law schools cannot move money from year to year without limitation, they have virtually carte blanche in this area when compared with the rigid procurement and payment procedures imposed on public law school counterparts.

At many state schools, administrators have limited ability to move funds from budget line to budget line as needed to make mid-course corrections as a fiscal year develops. However, payments must be made from funds allocated for the year goods and services are purchased, regardless of when they are received or invoiced. Funds carried over from year to year, prepaid, or placed on deposit are strictly limited or not allowed at all in states using zero-based budgeting. Try as they might to manage their libraries in difficult financial circumstances, public law school library administrators often are struck by just how little they are allowed to do to keep their libraries from taking it on the chin during bad budget years.

With all of these cards stacked against public law school library administrators, one may wonder why anyone takes these positions on or stays in them for any time at all. The simple answer is that, while successful fiscal management of publicly funded academic law libraries is difficult, it is possible. To the extent allowed by state law and local practice, public law school libraries are becoming increasingly adept at finding private funding sources to cushion the blows from reduced state funding. They are becoming increasingly entrepreneurial in winning approval for limited fee-based premium services aimed at the practicing bar and other non-academic clientele. Finally, law library administrators are realizing that they must be tireless and politically adroit advocates for their libraries' funding needs within their law schools, their parent institutions, and, as much as possible, with the governmental entities who hold the state's budget authority. Administering a law library in a publicly funded institution today is not for the faint of heart, but the rewards of maintaining a first-rate operation in the face of state funding challenges are significant.

*Steven D. Hinckley is the Associate Dean of Library and Information Technology and Professor of Law at the University of South Carolina School of Law, Columbia, South Carolina <e-mail: hinckley@law.sc.edu>.*