

Other counties may use proceeds of a sale under R.C. 343.47 to discharge only half of the taxes due for a particular year, if the transfer of the deed occurs between the deadlines for the two installments. This practice must, similarly, be rejected on the basis of the authorities discussed above. See, e.g., *Hoglen v. Cohen*; *Campbell v. Gumina*, 7 Ohio L. Abs. at 455 ("[i]t is true taxes are, by the system applicable in Ohio, paid on or before the 20th day of December, and on or before the 20th day of the following June.... Following the first day of October the taxes for the whole year were due and became a lien upon this property"); *Lenox Building & Loan Co. v. Young* (holding that proceeds from a sale made prior to the payment date for the second half installment must be used to pay the taxes due for the entire year).

Conclusion

On the basis of the analysis discussed above, it is my opinion, and you are advised, as follows:

1. Real property taxes become due and payable for purposes of R.C. 323.47 when the tax duplicate on which they appear is delivered to the county treasurer for collection pursuant to R.C. 319.28. Taxes for the entire year become due and payable at that time, even though it would be permissible to pay them in two installments.
2. When there is a sale to which R.C. 323.47 applies, the court must use proceeds of the sale to discharge the taxes, penalties, assessments, and interest that will, at the time when the deed is transferred, appear on the tax duplicate delivered to the county treasurer, or the county treasurer's estimate of that amount.

OPINION NO. 93-065

Syllabus:

A veterans service commission organized pursuant to R.C. 5901.02 is subject to the competitive bidding requirements of R.C. 307.86.

To: Gregory J. Brown, Ashtabula County Prosecuting Attorney, Jefferson, Ohio

By: Lee Fisher, Attorney General, December 21, 1993

You have requested an opinion concerning the applicability of competitive bidding requirements to the transactions of a veterans service commission. Although you did not specify any particular sections of the Revised Code among the many that prescribe competitive bidding, all of these sections, with the exception of R.C. 307.86, are clearly inapplicable to contracts of a veterans service commission.¹ Accordingly, this opinion is limited to an analysis of the applicability of R.C. 307.86 to the contracts of a veterans service commission.

¹ R.C. 125.51 (department of administrative services); R.C. 127.16 (state agencies); R.C. 152.18 (Ohio building authority); R.C. 153.08 (state buildings); R.C. 307.02 (board of county commissioners); R.C. 307.10 (board of county commissioners); R.C. 511.12 (board of township trustees); R.C. 735.05 (municipal corporations); R.C. 3313.46 (boards of education); R.C.

The Competitive Bidding Requirements of R.C. 307.86 Apply to the County and to a "Contracting Authority" As Defined in R.C. 307.92

R.C. 307.86 provides, in pertinent part, as follows:

Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of ten thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 125.04, 307.022, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding.²

Thus, the county and "contracting authorities" are subject to R.C. 307.86 for purchases or leases, with certain express exceptions, exceeding a cost of \$10,000. "Contracting authority" is defined by R.C. 307.92 as "any board, department, commission, authority, trustee, official, administrator, agent, or individual which has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof." Therefore, whether R.C. 307.86 applies to the transactions of a veterans service commission depends upon whether a veterans service commission is a county agency with the authority to enter into contracts on behalf of itself or the county.

A Veterans Service Commission Is A County Agency

Although there is no comprehensive test for determining whether an entity is an agency, board, commission, or authority of the county, prior Attorney General opinions have reasoned that an entity is a county board if it is "essentially a subdivision of the county or a subordinate department of the county." 1961 Op. Att'y Gen. No. 2383, p. 366 at 369; *see also* 1992 Op. Att'y Gen. No. 92-060. In order to determine whether an entity is essentially a subdivision or subordinate department of the county, Attorney General opinions have examined the following factors: (1) whether the territory that comprises the entity is coextensive with the territorial limits of the county, Op. No. 92-060; 1989 Op. Att'y Gen. No. 89-102; 1983 Op. Att'y Gen. No. 83-064; (2) whether the county is responsible for the organization and supervision of the entity, Op. No. 92-060; 1989 Op. Att'y Gen. No. 89-001; 1984 Op. Att'y Gen. No. 84-099; and (3) whether the entity is funded by or through the county, Op. No. 92-060; 1979 Op. Att'y Gen. No. 79-039.

The examination of these factors with respect to a veterans service commission reveals that it is essentially a subordinate department of the county.³ A veterans service commission is

3318.10 (board of education); R.C. 3375.41 (board of library trustees); R.C. 5525.01 (director of transportation); R.C. 5537.13 (Ohio turnpike commission); R.C. 5575.01 (board of township trustees).

² Further exceptions to the requirement of competitive bidding are set forth in divisions (A) through (I) of R.C. 307.86.

³ In 1940 Op. Att'y Gen. No. 3133, p. 1065, Vol. II, it was determined that the county prosecutor, as adviser to all county offices and county boards, was the legal adviser for the

organized under R.C. 5901.02: "In each county there shall be a commission known as 'the veterans service commission' composed of five persons. Such persons shall be residents of the county and shall be appointed by a judge of the court of common pleas." Since a veterans service commission is established in each county, the territory over which the commission exercises its authority is coextensive with the geographic boundaries of the county. Although the fact that the geographic boundaries of an entity are coextensive with the boundaries of a county is not, standing alone, enough to conclude that the entity is a subdivision or subordinate department of the county, "it weighs in favor of that determination, since an entity that exercises authority over an area that exceeds the territorial limits of the county has been determined not to be a subdivision or subordinate department of the county on that basis." Op. No. 92-60 at 2-247.

With regard to the organization and supervision of a veterans service commission, R.C. 5901.02 provides that the members of the commission are appointed by a judge of the court of common pleas. Additionally, a judge of the court of common pleas may remove any member of the commission for cause and shall fill vacancies on the commission for the unexpired term. R.C. 5901.03. The board of county commissioners (or any other legislative authority of a county that has adopted a charter for its government) fixes the compensation for services of the members of the veterans service commission. R.C. 5901.04; *see also State ex rel. Hartlaub v. Morgan*, 57 Ohio App. 3d 113, 566 N.E.2d 693 (Summit County 1989). Thus, a veterans service commission is organized and supervised by the county that it serves.

Funding for a veterans service commission is also provided by the county through means of a tax levy. R.C. 5901.11.⁴ The board of county commissioners may review and revise the budget submitted by the veterans service commission and thereafter must make the necessary levy to raise the amount it has approved. *Id.*; *see also* 1991 Op. Att'y Gen. No. 91-008.

A Veterans Service Commission Is a "Contracting Authority" for Purposes of R.C. 307.92

A veterans service commission has the authority to enter into contracts on its own behalf. *See, e.g.*, R.C. 5901.14 (authorizing the veterans service commission to contract for the

"soldiers' relief commission" established in the county. The name of the soldiers' relief commission was changed to the "veterans service commission" by Am. Sub. H.B. 626 (1987-1988 Ohio Laws, Part III, 4685, eff. Sept. 14, 1988).

⁴ R.C. 5901.11 reads as follows:

On or before the last Monday in May in each year, the veterans service commission shall meet and determine in an itemized manner the probable amount necessary for the aid and financial assistance of indigent persons and for the operation of the veterans service office for the ensuing year. After determining the probable amount necessary for such purposes, the commission shall prepare and submit a budget in the manner specified in division (C) of section 5705.28 of the Revised Code to the board of county commissioners which may review and revise the budget requests. The board, at its June session, shall make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county, to raise the amount that the board approves.

provision of transportation services for veterans); R.C. 5901.16 (authorizing a veterans service commission to purchase a plot in a cemetery for the burial, removal, and reinterment of bodies of neglected and indigent veterans). Since a veterans service commission is a county agency with the authority to enter into contracts on its own behalf, it is a "contracting authority" as that term is defined by R.C. 307.92. Accordingly, the requirements of R.C. 307.86 apply to the transactions of a veterans service commission.

Conclusion

Based on the foregoing, it is my opinion, and you are hereby advised, that a veterans service commission organized pursuant to R.C. 5901.02 is subject to the competitive bidding requirements of R.C. 307.86.

OPINION NO. 93-066

Syllabus:

1. Pursuant to R.C. 339.03, a member of a board of county hospital trustees must be allowed his necessary and reasonable expenses incurred in the performance of his duties. Such expenses include the cost of participation in such continuing education programs or developmental programs as the trustees consider necessary and also include any other expenses that the trustees, in the reasonable exercise of their discretion, find to be necessary and reasonable expenses incurred in the performance of a trustee's duties.
2. Expenses that are generally found acceptable for reimbursement include travel and parking expenses, overnight lodging, postage expenses, and telephone charges incurred in the discharge of official business. Meal expenses are reimbursable only when the payment for such meals is reasonably necessary to the performance of the trustee's statutory duties.

To: J. B. Collier, Jr., Lawrence County Prosecuting Attorney, Ironton, Ohio
By: Lee Fisher, Attorney General, December 21, 1993

You have requested an opinion concerning the language of R.C. 339.03 that permits trustees of a county hospital to recover their reasonable expenses incurred in the performance of their duties. The relevant provision states:

The trustees shall serve without compensation, but *shall be allowed their necessary and reasonable expenses incurred in the performance of their duties*, including the cost of their participation in such continuing education programs or developmental programs as the trustees consider necessary.

R.C. 339.03 (emphasis added). Your letter notes that the statute clearly permits reimbursement of costs of participating in continuing education programs or developmental programs. You are interested in a determination of other sorts of expenses that might be included within this provision. It is assumed that in each case the actual expenses incurred will be itemized and proper documentation will be provided.¹

¹ This opinion addresses only reimbursement for expenses actually incurred and paid by a trustee and does not consider any sort of general expense allowance that is not based directly on out-of-pocket expenses.