

OPINION NO. 70-056**Syllabus:**

1. After a regional airport authority is created, the board of county commissioners can change its operations only by amending the original resolution creating it to affect its territorial jurisdiction, or any other specific item mentioned in Section 308.03 (A) to (G), Revised Code.

2. There is no delegation of power or authority to the board of county commissioners enabling them to abolish a regional airport authority.

3. The dissolution of a regional airport authority, or the disposition of its assets, not having been provided for by statute, is a judicial matter which may be resolved only by a court of competent jurisdiction.

To: Ronald J. Kane, Portage County Pros. Atty., Ravenna, Ohio
By: Paul W. Brown, Attorney General, May 11, 1970

I have before me your request for an opinion on the following questions:

"1. After a Regional Airport Authority has been created, can a Board of County Commissioners limit or restrict its authority as granted by Sections 308.01 to 308.17, inclusive, of the Revised Code?

"2. After a Regional Airport Authority has been established by a Board of County Commissioners of a single County, can that Board of County Commissioners abolish it? If so,

"3. What disposition should be made of any property acquired and held by such Regional Airport Authority?"

It must be understood that both a regional airport authority and a board of county commissioners are creatures of statute, and that any discussion of the relationship between the two must be founded on statutory authority. In the context of the questions you have asked, control by a board of county commissioners over a regional airport authority must be authorized expressly by, or fairly implied from, statute.

Chapter 308, Revised Code, is the only statutory source of law governing regional airport authorities. Section 308.02, Revised Code, authorizes their creation. It reads:

"A regional airport authority may be created in the manner provided in section 308.03, of the Revised Code, for the purpose of acquiring, constructing, operating, and maintaining airports and airport facilities."

Section 308.03, Revised Code, provides the manner in which the regional airport authority must be created. Essentially, where only one county desires a regional airport authority, it may be created by resolution of that county's board of county commissioners, which resolution must state (a) its necessity, (b) territorial limits, (c) official name, (d) principal office location or the manner of selecting the location, and (e & f) the organization and membership of its board of trustees.

Section 308.03, supra, specifically provides that:

"* * * * *

"The resolution creating a regional airport authority may be amended to include

additional counties or for any other purpose, by the adoption of such amendments by the board of county commissioners of each county included or to be included in the regional airport authority.

"* * * * *"

(Emphasis added.)

Certainly all possible purposes cannot be implied from this wording.

I am constrained to believe that the words emphasized above must be limited to the authority granted to the county commissioners by such section, specifically item (B) and impliedly (C) through (G) for this goes to the creation of the authority alone. All of the authority's powers, duties and responsibilities are found in other Sections of Chapter 308, Revised Code. Nowhere can the power to dissolve or abolish a regional airport authority be found in the statutes of Ohio.

Should a regional airport authority desire to cease operations, it would be incumbent upon it to liquidate its holdings and satisfy all outstanding debts and contractual obligations. In the absence of statutory requirements for proceedings of this nature, it would seem necessary that a proper legal action be instituted for the satisfaction of all claims, as well as a request for the dissolution of the authority.

Should there be insufficient assets to pay all claimants, a marshaling of liens, or its equivalent, under Chapter 1311, Revised Code, would be required to determine their priorities, and to foreclose their equities. In any event, notice by publication to apprise all potential valid claim holders, affording them an opportunity to present their claims, would be necessary or prerequisite to the approval of an entry dissolving an airport authority. The amount of surplus funds remaining after satisfaction of all claims or obligations, and their disposition, should be incorporated in the entry for dissolution of the regional airport authority. There being no statutory authority for dissolution or disposition of assets of a regional airport authority, they remain a problem for the judiciary to resolve.

From the foregoing, it is my opinion and you are advised that:

1. After a regional airport authority is created, the board of county commissioners can change its operations only by amending the original resolution creating it to affect its territorial jurisdiction, or any other specific item mentioned in Section 308.03, (A) to (G), Revised Code.
2. There is no delegation of power or authority to the board of county commissioners enabling them to abolish a regional airport authority.
3. The dissolution of a regional airport authority, or the

disposition of its assets, not having been provided for by statute, is a judicial matter which may be resolved only by a court of competent jurisdiction.