

**Syllabus:**

Under R.C. 149.38, a county records commission is not responsible for providing rules for the retention and disposal of records of a regional transit authority established pursuant to R.C. 306.32.

**To: Lee C. Falke, Montgomery County Prosecuting Attorney, Dayton, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, October 25, 1988**

I have before me your request for my opinion concerning the duties of the county records commission. You ask whether the county records commission is responsible for providing rules for the retention and disposal of records by a regional transit authority (RTA).

R.C. 149.38, which creates a county records commission in each county and sets forth the duties of each commission, provides in pertinent part:

There is hereby created in each county a county records commission, composed of the president of the board of county commissioners as chairman, the prosecuting attorney, the auditor, the recorder, and the clerk of the court of common pleas....

*The functions of the commission shall be to provide rules for retention and disposal of records of the county and to review applications for one-time records disposal and schedules of records retention and disposal submitted by county offices.* Records may be disposed of by the commission pursuant to the procedure outlined in this section. The commission may at any time review any schedule it has previously approved, and for good cause shown may revise that schedule. (Emphasis added.)

Thus, pursuant to R.C. 149.38, the county records commission is responsible for providing rules relating to records of the county and to review applications and schedules submitted by county offices. To answer your question I must determine, for purposes of R.C. 149.38, whether RTA records are records of the county and whether an RTA is a county office.

An RTA is created and governed pursuant to R.C. 306.30-71. R.C. 306.32 provides that "[a]ny county, or any two or more counties, municipal corporations, townships, or any combination thereof, may create a regional transit authority...." Because an RTA may be any combination of counties, municipal corporations, and townships, an RTA will not necessarily have jurisdiction coextensive with the county. An RTA created pursuant to R.C. 306.32 is a political subdivision of the state and a body corporate. R.C. 306.31; *Spitaleri v. Metro Regional Transit Authority*, 67 Ohio App. 2d 57, 426 N.E.2d 183 (Summit County 1980). The governing body of each RTA is its board of trustees, which is charged with managing the RTA. R.C. 306.34. Each RTA is authorized to levy its own taxes and to issue its own bonds. R.C. 306.35(H); R.C. 306.35(I). Thus, under the foregoing statutory provisions, each RTA is an independent regional entity, which may be comprised of any combination of counties, municipal corporations, and townships. Regional entities formed by subdivisions are separate from the participating subdivisions. See 1985 Op. Att'y Gen. No. 85-071 (a joint fire district is separate from the participating townships and municipalities); 1985 Op. Att'y Gen. No. 85-012 (a regional civil defense organization is separate from the subdivisions that established it); 1981 Op. Att'y Gen. No. 81-059 (a joint recreation district is separate from the participating subdivisions). Because a regional entity is separate from the participating subdivisions, I find that an RTA is separate and independent from a participating county. I conclude, therefore, that records of an RTA are not records of the county for purposes of R.C. 149.38.

My conclusion is reinforced by a number of opinions which have addressed an issue similar to the issue at hand. In construing R.C. 309.09, which provides that the prosecuting attorney of the county shall be the legal adviser of all county officers and boards, I and several of my predecessors have examined regional entities formed by a combination of subdivisions. Both I and my predecessors have concluded that such regional entities are not county departments or county boards and that, therefore, the prosecuting attorney of the county does not have a duty to advise these entities. See Op. No. 85-012 (regional civil defense organization); 1983 Op. Att'y Gen. No. 83-064 (joint board of commissioners for a multicounty detention center); 1981 Op. Att'y Gen. No. 81-059 (joint recreation district); 1979 Op. Att'y Gen. No. 79-039 (joint ambulance district); 1979 Op. Att'y Gen. No. 79-019 (multicounty felony bureau); 1961 Op. Att'y Gen. No. 2383, p. 366 (regional planning commission). In accordance with these opinions, I find that an RTA, as a regional entity comprised of any combination of counties, municipalities and townships, is not a department or board of a participating county. Cf. 3306.01 (providing for a county transit system and county transit board). Because an RTA is a separate entity from the county and because an RTA is not a department of a participating county, I conclude that for purposes of R.C. 149.38 records of an RTA are not records of the county, and applications and schedules submitted by an RTA are not applications and schedules submitted by a county office. Thus, under R.C. 149.38, a county records commission is not responsible for providing rules for the retention and disposal of records of an RTA.

Therefore, it is my opinion and you are advised that under R.C. 149.38, a county records commission is not responsible for providing rules for the retention and disposal of records of a regional transit authority established pursuant to R.C. 306.32.