

**Note from the Attorney General's Office:**

1969 Op. Att'y Gen. No. 69-123 was overruled by  
1978 Op. Att'y Gen. No. 78-014.

## OPINION NO. 69-123

## Syllabus:

A board of township trustees may utilize funds acquired under Section 505.39, Revised Code, and Section 5705.19 (I), Revised Code, for the purpose of furnishing ambulance service to its citizens and such funds may be used when the service is furnished directly through the township fire department under Section 505.37, Revised Code, or indirectly by contract under Section 505.443, Revised Code.

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To: Robert A. Jones, Clermont County Pros. Atty., Batavia, Ohio  
By: Paul W. Brown, Attorney General, September 24, 1969

I am in receipt of your opinion request wherein you ask the following:

"May tax levy funds for fire protection voted under Section 5705.19 (I) of the Revised Code be used for the purpose of providing and maintaining ambulance service to residents of the township:

"(a) when such service is furnished by a township fire department;

"(b) when such service is contracted with a private life squad company or another township or municipality."

Section 505.37, Revised Code, states in pertinent part:

"The board of township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damage and accidents and may, with the approval of the specifications by the prosecuting attorney, purchase or otherwise provide such fire apparatus, mechanical resuscitators or other equipment, appliances, materials, fire hydrants, and water supply for fire-fighting purposes as seems advisable to the board. Such board shall provide for the care and maintenance of fire equipment, and, for such purposes, may purchase, lease, or construct and maintain necessary buildings, and it may establish and maintain lines of fire-alarm communications within the limits of the township.  
\* \* \*

Section 505.39, Revised Code, states:

"The board of township trustees may, in any year, levy a sufficient tax upon all taxable property in the township or in a fire district, to provide protection against fire, to provide and maintain fire apparatus and appliances, buildings and

sites for apparatus and appliances, sources of water supply, lines of fire-alarm telegraph, and to pay permanent, part-time, or volunteer fire-fighting companies to operate such equipment."

Section 5705.19, Revised Code, states in pertinent part:

"The taxing authority of any subdivision at any time prior to the fifteenth day of September, in any year, by vote of two-thirds of all the members of said body, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the following purposes:

\* \* \* \* \*

"(I) For the purposes of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph or the payment of permanent, part-time, or volunteer firemen or fire fighting companies to operate the same;

\* \* \* \* \*

It seems clear that if funds acquired for fire protection under Section 505.39, supra, may be expended for ambulance service, funds acquired for fire protection under Subsection (I), Section 5705.19, supra, may be expended likewise as both sections are concerned with the same subject matter, the latter section merely providing a procedure for raising additional revenue if those acquired under Section 505.39, supra, are insufficient.

In Opinion No. 3331, Opinions of the Attorney General for 1962, my predecessor discussed the question of purchasing and maintaining an ambulance under Section 505.37, supra, and concluded that the wording of this section was sufficiently broad in scope to authorize ambulance service, although ambulances were not expressly mentioned in the statute. It was further concluded that revenues acquired under Section 505.39, supra, could be used for ambulances purchased and maintained under Section 505.37, supra.

In 1967 the legislature enacted Section 505.443, Revised Code, which reads as follows:

"In order to obtain ambulance service, or to obtain additional ambulance service in times of emergency; any township may enter into a contract, for a period not to exceed three years, with one or more townships, municipal corporations, or private ambulance owners, regardless of whether such townships, municipal corporation, or private ambulance owners are located within or without the state, upon such terms as are agreed to by them to furnish

or receive ambulance services or the interchange of ambulance services within the several territories of the contracting subdivisions, if such contract is first authorized by respective boards of township trustees or other legislative bodies.

"Such contract may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call or emergency, or the elapsed time of service required in such run, call, or emergency, or any combination thereof."

In Opinion No. 69-038, Opinions of the Attorney General for 1969, I discussed this statute in connection with the following question:

"\* \* \*whether\* \* \* a fire department, volunteer or hired, maintained by a township, may operate an ambulance purchased under authority of Section 505.-37, Revised Code, for any emergency situation or whether such ambulance may be used only in emergency situations in conjunction with fire protection."

I concluded that a fire department maintained by a township could properly operate ambulances to protect property and lives against damages and accidents and such use was not limited to situations in conjunction with fire protection.

This opinion states in pertinent part:

"The legislature could have placed but did not place words of limitation on the kind of ambulance service for which the township might contract under the provisions of Section 505.443, supra, and thereby limit such ambulance service to service in conjunction with fire protection. In reflecting upon the legislative intent, it would appear inconsistent that the township itself could acquire and operate rescue vehicles or ambulances only in conjunction with fire protection, but could contract under Section 505.443, supra, for ambulance service not limited to fire protection. As heretofore indicated, Section 505.37, supra, provides that the board of township trustees may establish all necessary regulations to protect the property and lives of the citizens against damage and accidents."

Although the question of funds for the operation of ambulances was not discussed in the above opinion, it follows that if an activity is authorized under Section 505.37, supra, revenues acquired under Section 505.39, supra, may be used to support the activity.

To summarize, ambulances may be purchased and operated under Section 505.37, supra, and when they are so purchased and operated, funds acquired under Section 505.39, supra, may be used for this purpose the same as they are used for normal fire protection purposes. In view of Section 505.443, supra, it is clear that a board of township trustees may operate an ambulance service through a fire department or contract for this service with other agencies or individuals.

Section 505.443, supra, does not, in my opinion, change the source of revenue needed to operate an ambulance service, it merely authorized the board of township trustees to contract for this service in lieu of or in addition to furnishing such service directly.

In view of the above, it is my opinion and you are hereby advised that a board of township trustees may utilize funds acquired under Section 505.39, Revised Code, and Section 5705.19 (I), Revised Code, for the purpose of furnishing ambulance service to its citizens and such funds may be used when the service is furnished directly through the township fire department under Section 505.37, Revised Code, or indirectly by contract under Section 505.443, Revised Code.