

Note from the Attorney General's Office:

1978 Op. Att'y Gen. No. 78-055 was overruled by
1979 Op. Att'y Gen. No. 79-004.

OPINION NO. 78-055**Syllabus:**

R.C. 307.441 (E) requires a board of county commissioners to procure liability insurance for all county officials named in R.C. 307.441 (A) to (D) if it purchases such insurance for any county official named therein.

To: John F. Holcomb, Butler County Pros. Atty., Hamilton, Ohio
By: William J. Brown, Attorney General, October 2, 1978

I have before me your request for my opinion which may be summarized as follows:

Does R.C. 307.441 (E) require a county commission to obtain liability insurance for all persons mentioned in R.C. 308.441 if it obtains false arrest insurance for deputy sheriffs?

R.C. 308.441 permits county commissioners to procure liability insurance for certain county employees. R.C. 308.441 (A) provides for insurance coverage for the

county recorder, the clerk of the Court of Common Pleas, and the deputies of such officers. R.C. 307.441 (B) empowers a board to purchase such insurance for the county sheriff and his deputies. R.C. 307.441 (C) allows a board to provide such coverage to the county prosecuting attorneys and assistant prosecuting attorneys. R.C. 307.441 (D) allows the Board to procure liability coverage for the county coroner, engineer, auditor, each commissioner, the treasurer and the assistants of those officers.

R.C. 307.441 (E) places the following restriction upon the power of a board of county commissioners to procure liability insurance:

(E) If the board of county commissioners of any county procures a policy or policies of insurance insuring any county official against liability arising from the performance of his official duties as provided by divisions (A) to (D) of this section, it shall procure policies of insurance insuring all county officials as authorized in those divisions. (Emphasis added.)

Your question concerns the effect of this division. Specifically, you ask whether R.C. 307.441 (E) requires a board of county commissioners to purchase liability insurance for all county employees mentioned in R.C. 307.441 if it authorizes the purchase for any one of them. The language employed in R.C. 307.441 (E) is susceptible of two reasonable interpretations. First, it might be construed to require the purchase of liability insurance for each officer and employee mentioned in the particular division of the section in which the position of the officer or employee is found. It might also be read to require the purchase of insurance for all county officers or employees enumerated in the section if it is purchased for any one of them. I am persuaded that the latter interpretation is correct. In Summary of 1975 Enactments January-October 1975, at page 179, the Legislative Service Commission stated that Am. S.B. No. 143, which amended R.C. 307.441 into its present form, ". . . requires liability insurance to be purchased for all county officials if purchased for any official . . ." While such interpretation is not dispositive, it is indicative of the understanding of the General Assembly of the effect of Am. S.B. No. 143. Moreover, the last sentence of R.C. 307.441(E) states that if liability insurance is purchased for any one county official, it must be purchased for all county officials authorized in those divisions. The use of the plural rather than the singular "division" indicates that all officials, rather than just those in any one particular division, are to receive insurance if one of the officials or employees enumerated in that section receive it.

Accordingly, it is my opinion, and you are so advised, that R.C. 307.441(E) requires a board of county commissioners to procure liability insurance for all county officials named in R.C. 307.441(A) to (D) if it purchases such insurance for any county official named therein.