

OPINION NO. 1207**Syllabus:**

1. A regional planning commission is an entity separate and distinct from the county and the procedures employed by the regional organization in drawing against its own funds do not have to conform to county practices in drawing vouchers against county funds.

2. The "certificate" of the regional planning commission required by Section 713.21, Revised Code, is nothing more than a declaration in writing and an attestation thereto, that a specific sum is to be paid out of the county treasury for certain purposes.

3. A regional planning commission, may delegate authority to certain members to carry on the current operations of the commission, including the authority to approve and sign the "certificates" required by Section 713.21, Revised Code.

4. No concurrence or approval by either state, county, or municipal officers is required on receipt of a "proper certificate" from the regional planning commission pursuant to Section 713.21, Revised Code.

5. The accounts and records of a regional planning commission are subject to examination by the Bureau of Inspection and Supervision of Public Offices.

6. A regional planning commission may expend funds appropriated for or otherwise received by it in the exercise of any of the powers or the discharge of any of the duties of the commission as set out in Section 713.21 et seq., Revised Code.

To: Garver Oxley, Hancock County Pros. Atty., Findlay, Ohio
By: William B. Saxbe, Attorney General, July 10, 1964

Your request letter reads, in part, as follows:

"The Enabling Act creating Regional Planning Commissions is found at Section 713.21 O.R.C. This statute provides that:

"The sums so appropriated shall be paid into the treasury of the County in which the greater portion of the region is located, and shall be paid out on the certificate of the Regional Planning Commission and the warrant of the County Auditor of such County for the purposes authorized by Sections 713.21 to 713.27, inclusive, of the Revised Code.'

"The precise questions which require answer are as follows:

"(1) What constitutes a "certificate" of the Regional Planning Commission?

Must such a certificate conform to established County practices for vouchers drawn against County Funds?

What officers may approve such certificates and how many signatures are required for the validity of same?

Is it necessary for the Planning Director of the Regional Planning Commission or some other employee to receipt for the purchases made?

Finally, what resolution or proof of authority should be furnished by the Regional Planning Commission to the County Auditor?

"(2) The issuance of warrants by the County Auditor is generally made on the approval of the Board of County Commis-

sioners. Under Section 713.21, is it necessary that the Board of County Commissioners for Hancock County approve the expenditure of Regional Planning Commission funds either prior to a purchase or prior to the payment of any invoices?

"(3) No provision is specifically made with respect to State audit of Regional Planning Commission accounts. Does the State Bureau of Inspection have the authority to make periodic audits and to prescribe the methods and procedures for the expenditures of Planning Commission funds contributed by multiple political subdivisions?

"(4) Section 713.21 authorizes a Regional Planning Commission to make such purchases as it deems necessary for its use. What are the legal limitations on the exercise of this power? May the County Auditor refuse payment upon receipt of a proper 'certificate' and may the County Auditor require approval of any authority outside the Regional Planning Commission?

"Your consideration and opinion will be appreciated."

Your inquiry necessitates a look into the basic nature of a regional planning commission. Section 713.21, Revised Code, is the enabling statute, the first paragraph providing as follows:

"The planning commission of any municipal corporation or group of municipal corporations, any board of township trustees, and the board of county commissioners of any county in which such municipal corporation or group of municipal corporations is located or of any adjoining county may co-operate in the creation of a regional planning commission, for any region defined as agreed upon by the planning commissions and boards, exclusive of any territory within the limits of a municipal corporation not having a planning commission."

It is thus apparent that a regional planning commission is a cooperative venture involving at least one municipal corporation and one county. Obviously, therefore, such a commission is not essentially a subdivision of the county or a subordinate department of the county. Two of my predecessors had also arrived at the same conclusion. See Opinion No. 2383, Opinions of the Attorney General for 1961, page 366 and Opinion No. 5678, Opinions of the Attorney General for 1955, page 419.

It is apparent, then, that a regional planning commission is established as a semi-autonomous entity having an existence apart and in a sense independent of the several

subdivisions which joined in its creation. Your specific problem revolves around the fiscal activities of the regional planning commission and, in particular, the construction to be given to the following provisions found in the second paragraph of Section 713.21, supra.

"* * *Such boards and the legislative authorities of such municipal corporations may appropriate their respective shares of such costs. The sums so appropriated shall be paid into the treasury of the county in which the greater portion of the region is located, and shall be paid out on the certificate of the regional planning commission and the warrant of the county auditor of such county for the purposes authorized by section 713.21 to 713.27, inclusive, of the Revised Code.* * *"

Reading the above in connection with the proposition that a regional planning commission is a semi-autonomous entity, it necessarily follows that the fiscal affairs of the regional organization must be carried on separately and independently from the fiscal affairs of the county, notwithstanding that the sums appropriated to the regional organizations are paid into the county treasury. It appears to me that the keeping of these sums in the treasury of the county in which the greater portion of the region is located, is more a matter of convenience to the regional organization than a method by which the county is to have control over the fiscal affairs of the regional organization.

With this general background it is now proper to proceed to your specific inquiries.

First of all, in regard to the certificates of the regional planning commission referred to in Section 713.21, supra, a general definition of the term, "certificate" is set out in 14 C.J.S. 111 (1939). Here the following statement is found:

"A certificate in its most general and widest sense has been defined as meaning a certain assurance of that which it states; a declaration in writing; an authoritative attestation; a writing giving assurance that a thing has or has not been done, that a fact exists or does not exist; a written testimony of the truth of any fact; the usual and customary method of what has or has not been done.

"More specifically, the word has been defined as meaning a documentary declaration regarding facts from the public authority, as an attestation of facts contained in a public record; a statement in writing by a person having a public or official status concerning some matter within his knowledge or authority; a writing by which an officer or other person bears testimony that a fact has or has not taken place;* * *"

It is my opinion, based on the meaning commonly attributed to the term "certificate," that the certificate required by Section 713.21, supra, is nothing more than a declaration in writing and an attestation thereto, by the regional planning commission or those who have been given authority to make such attestation, that a specific sum is to be paid out of the county treasury for certain purposes. In my opinion, however, the requirement of a "certificate" in Section 713.21, supra, is minimal and there is no reason that this requirement can not be satisfied by using that type of "voucher" employed by county agencies pursuant to Section 319.19, Revised Code. It appears to me that the only significant reason for using the term "certificate" in Section 713.21, supra, instead of "voucher" was to avoid any notion that the fiscal affairs of the regional planning commission are subject to administration by the county. This is simply another illustration of the legislative intent in maintaining the county and regional entities as separate and distinct from one another and further leads me to the conclusion that the procedures employed by the regional organization in drawing against its own funds do not have to conform to county practices in drawing vouchers against county funds.

You have also asked what officers may approve the certificates and who must sign such certificates. I assume you are referring to the members of the regional planning commission. Section 713.21, supra, provides that the sums shall be paid out on the "certificate of the Regional Planning Commission." It is my opinion that this does not require that the entire membership of the planning commission, acting in concert, sign the certificate. It is obvious that such a requirement would destroy the effectiveness of its operations. It is more logical to take the position that the planning commission, in its entirety, may delegate authority to certain members to carry on the current operations of the commission, and this necessarily includes the authority to approve and sign the certificates. Such practice is not totally unfamiliar today. The Board of Directors of a corporation, when it is impractical for them to convene everyday may delegate its authority in current business operations to certain agents and representatives. Ballantine, Corporations, Section 46, page 132 (1946 Revised Edition).

The question also arises as to the proof of the agent's authority to act for the regional organization when he deals with third parties. In my opinion his attestation to the certificate is sufficient proof of his authority to act for the commission. Any risk that the third party entails in relying upon the purported agent is somewhat lessened by the general proposition of agency law that one who purports to contract as an agent, but proves in fact unable to bind the purported principal, should be liable to the third party for injury done him thereby. Mechem, Outlines of the Law of Agency, Section 322, page 220, (1952 Fourth Edition).

Your second question appears also to be disposed of by a consideration of the organization of a regional commission.

Persuaded by the proposition that a regional organization is established as a semi-autonomous entity having an existence apart from and in a sense independent of the several subdivisions which joined in its creation, I therefore conclude that no concurrence or approval by either state, county, or municipal officers is required on the receipt of a proper "certificate" from the Regional Planning Commission. This is also dispositive of the second part of your fourth question.

As to your third question, take note of the following provision in Section 117.09, Revised Code:

"The bureau of inspection and supervision shall examine each public office.
* * *"

I do not believe that it can be seriously contended that the regional planning commission is not a public agency, nor that its officers are not public officers, nor that its funds are not "public moneys" as such term is defined in Section 117.10, Revised Code. The purpose and function of such an organization, the method of its creation, the means by which it is supported, and the powers given it under the provisions of Section 713.21, supra, all clearly indicate that it has been clothed with some part of the sovereignty of the state, and this is the chief and controlling test of what constitutes a public office. I have no difficulty, therefore, in concluding that the accounts and records of such organizations are subject to examination by the Bureau of Inspection and Supervision of Public Offices.

In regard to your fourth question, the first part, pertaining to the legal limitations upon the purchasing power of the regional planning commission, can be disposed of by taking note of the following provision in Section 713.21, supra,

"Within the amounts thus agreed upon and appropriated or otherwise received, the regional planning commission may employ engineers, accountants, consultants, and employees as are necessary and may rent such space and to make such purchases as it deems necessary to its use."

(Emphasis added)

Although this language is hardly suggestive of a carte blanche authorization, I regard it as sufficient to authorize the expenditure of funds appropriated for or otherwise received by the commission in the exercise of any of the powers or the discharge of any of the duties of the commission as set out in Section 713.21 et seq., Revised Code.

The second part of question number four has been disposed of in my answer to question number two.

It is therefore my opinion and you are accordingly advised that:

1. A regional planning commission is an entity separate

and distinct from the county and the procedures employed by the regional organization in drawing against its own funds do not have to conform to county practices in drawing vouchers against county funds.

2. The "certificate" of the regional planning commission required by Section 713.21, Revised Code, is nothing more than a declaration in writing and an attestation thereto, that a specific sum is to be paid out of the county treasury for certain purposes.

3. A regional planning commission may delegate authority to certain members to carry on the current operations of the commission, including the authority to approve and sign the "certificates" required by Section 713.21, Revised Code.

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