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1. DEFENSE, CIVIL—POLITICAL SUBDIVISIONS WITHIN COUNTY MAY ENTER INTO CONTRACTS WITH LEGISLATIVE AUTHORITIES OF COUNTY—PURPOSE—TO COORDINATE CIVIL DEFENSE FUNCTIONS OF SUBDIVISIONS—SECTION 2450-1 ET SEQ., G.C
2. CONTRACT MAY PROVIDE FUNDS CONTRIBUTED BY SEVERAL PARTICIPATING PARTIES SHALL BE DEPOSITED IN SPECIAL FUND—COUNTY TREASURER—LEGALLY DISBURSED AS COUNTY FUNDS.

SYLLABUS:

1. The several political subdivisions within a county may enter into contracts with the legislative authorities of the county under the provisions of Section 2450-1 et seq., General Code, for the purpose of coordinating the civil defense functions of such subdivisions.

2. Such contract may properly provide that the funds contributed by the several participating parties for the furtherance of the objects of the contract shall be deposited in a special fund with the county treasurer and disbursed in the manner as is provided by law in the case of county funds generally.

Columbus, Ohio, April 7, 1952

Hon. William A. Ambrose, Prosecuting Attorney
Mahoning County, Youngstown, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Mr. R.S.H., Civil Defense Director of this County, desires to coordinate the Civil Defense efforts of the various political subdivisions within this county.

“In his efforts to effectuate this purpose the following question has arisen.

“1. Can the various political subdivisions within a county legally enter into service contracts with the legislative authorities of the county under the provisions of Section 2450-1, et seq., of the General Code, for the purpose of coordinating the defense efforts of the various political subdivisions with the county?

"2. If your answer to number 1 is yes, can the funds contributed by the parties to the contracts be placed in a common Civil Defense fund with the County Treasurer, and disbursed in the usual manner through the County Auditor's office?"

From certain additional information which has been brought to my attention in this case, it is my understanding that the local authorities in Mahoning County propose to form a county-wide organization for civil defense as authorized by Section 5295-1, General Code, which section is as follows:

"The board of county commissioners of any county and the legislative authority of all or of a majority of the municipalities, including the municipality having the largest population, within such county may enter into an agreement establishing a county-wide local organization for civil defense in accordance with such regulations as shall be promulgated by the governor. A director of civil defense who shall have the direct responsibility for the organization, administration and operation of such county-wide local organization for civil defense shall be appointed in accordance with and shall be subject to the direction and control prescribed by the regulations promulgated by the governor."

Neither this nor any related section of the statutes pertinent to civil defense organizations contains any express provision authorizing a participating subdivision to pay over its funds to the support of a county-wide organization, nor any express provision as to the authority of such organization to disburse such funds as it may receive.

In this situation, without considering the possibility that such authority is implied in the language of Section 5295-1, *supra*, it has been proposed in the instant case to treat the creation of a county-wide civil defense organization as a contract entered into under the provisions of Section 2450-1, *et seq.*, General Code. Sections 2450-1, 2450-2 and 2450-3 are as follows:

Section 2450-1, General Code:

"As used in this act:

"a. The term 'legislative authority' shall mean the board of commissioners, board of trustees, board, council, or commission, of a contracting subdivision;

"b. The term 'contracting subdivision' shall mean any governmental subdivision or taxing district of the state of Ohio which by its legislative authority enters into an agreement with a board of county commissioners under the authority of this act."

Section 2450-2, General Code:

“The board of county commissioners of any county may enter into an agreement or agreements with the legislative authority of any city, village, school district, library district, health district, park district, soil conservation district, water conservancy district, or other taxing district, or with the board of county commissioners of any other county as legislative authority thereof, and such legislative authorities shall have power to enter into such agreements with the board of county commissioners, whereby such board undertakes, and is authorized by the contracting subdivision, to exercise any power or powers, to perform any function or functions, or to render any service or services, in behalf of the contracting subdivision or of its legislative authority, which such contracting subdivision or its legislative authority is authorized to exercise, perform or render. Upon the execution of such agreement and within the limitations prescribed by it, the board of county commissioners shall have and may exercise the same powers as the contracting subdivision possesses with respect to the performance of any function or the rendering of any service, which by such agreement they undertake to perform or render, and all powers necessary or incidental thereto, as amply as such powers may be possessed and exercised by the contracting subdivision directly. In the absence in such agreement of provisions determining by what officer, office, department, agency, or authority the powers and duties of the board of county commissioners in accordance with such agreement shall be exercised or performed, the board of county commissioners shall from time to time determine and assign the same. Nothing in this act nor in any agreement by it authorized shall be construed to suspend the possession by a contracting subdivision of any power or function exercised or performed by the board of county commissioners in pursuance of such agreement. Nor shall the county commissioners by virtue of any agreement entered into under the authority of this section be deemed to have acquired any power to levy taxes within and in behalf of a contracting subdivision unless otherwise provided for by law.”

Section 2450-3, General Code:

“Every agreement entered into under the authority of this act shall provide, either in specific terms or by prescribing a method for determining the amounts, for any payments to be made by the contracting subdivision into the county treasury, in consideration of the performance of the agreement. In cases where it is deemed practicable, the agreement may provide that payment shall be made by the retention in the county treasury of the amounts due from taxes collected for the contracting subdivision; and the county auditor and treasurer shall be governed by any such provision in settling the accounts for such taxes.”

The provisions of these statutes are quite broad and since they comprehend "any power * * * function or * * * service * * * which such contracting subdivision or its legislative authority is authorized to exercise, perform or render," we must conclude that they are applicable to the function of civil defense unless the special statutes relating to that subject are inconsistent therewith. Not only do I find nothing in the special statutes relating to civil defense which is inconsistent with these provisions, but it rather clearly appears that they complement each other. Especially is this apparent in the matter of providing for financial support of a county-wide organization and the disbursement of such organization's funds where the special statutes relating to that subject are deficient to the extent hereinbefore noted. Accordingly, in specific answer to your inquiry, it is my opinion that:

1. The several political subdivisions within a county may enter into contracts with the legislative authorities of the county under the provisions of Section 2450-1 et seq., General Code, for the purpose of coordinating the civil defense functions of such subdivisions.

2. Such contract may properly provide that the funds contributed by the several participating parties for the furtherance of the objects of the contract shall be deposited in a special fund with the county treasurer and disbursed in the manner as is provided by law in the case of county funds generally.

Respectfully,

C. WILLIAM O'NEILL
Attorney General