

OPINION NO. 87-049**Syllabus:**

1. Pursuant to R.C. 135.01, the board of trustees of a joint ambulance district created under R.C. 505.71 is the governing board of the district and is authorized to deposit or invest the moneys of the district in accordance with the applicable provisions of R.C. Chapter 135.
2. Pursuant to R.C. 135.14, the board of trustees of a joint ambulance district may invest or deposit the interim moneys of the district in any of the classifications of obligations named in that section, subject to the limitations contained therein.

To: Dennis E. Barr, Hardin County Prosecuting Attorney, Kenton, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, July 10, 1987

I have before me your request for an opinion concerning the investment of funds by the board of trustees of a joint ambulance district. Your letter states, in part:

I have researched the area and have concluded that the board of trustees of the ambulance district, if they do not have a treasurer, would be responsible for determining the investments pursuant to the definition of "governing board" in O.R.C. §135.01(D).

Pursuant to this I have concluded that they could then invest their interim moneys in any of the investments named in O.R.C. §135.14.

You have asked whether this analysis is correct. I concur in your analysis and conclusions.

R.C. 505.71 authorizes the creation of a joint ambulance district, as follows:

The boards of township trustees of one or more townships and the legislative authorities of any one or more municipal corporations within or adjoining such townships, or the boards of township trustees of two or more townships, or the legislative authority of two or more municipal corporations, may, by adoption of a joint resolution by a majority of the members of each board of township trustees and by a majority of the members of the legislative authority of each municipal corporation, create a joint ambulance district comprising the municipal corporations and all or any portions of the townships as are mutually agreed upon. A district so created shall be given a name different from the name of any participating township or municipal corporation.

The governing body of a district shall be a board of trustees, which shall include one representative appointed by each board of township trustees and one representative appointed by the legislative authority of each municipal corporation in the district....The board shall employ a clerk....

To provide the services and equipment it considers necessary for the district, the board may levy taxes, subject to Chapter 5705. of the Revised Code, and issue bonds and other evidences of indebtedness, subject to Chapter 133. of the Revised Code, after submitting the question of such issuance to the electors of the district in the manner provided by Chapter 133. of the Revised Code. The district may purchase, lease, maintain, and use all materials, equipment, vehicles, buildings, and land necessary to perform its duties.

A joint ambulance district is, thus, an entity created by two or more political subdivisions. See 1979 Op. Att'y Gen. No. 79-039; 1977 Op. Att'y Gen. No. 77-066. It is governed by a board of trustees, which has authority to levy taxes and issue bonds. R.C. 505.71 provides that the board of trustees shall employ a clerk, and R.C. 505.72 authorizes the board of trustees to hire other employees. See R.C. 505.72 ("[t]he board of trustees of a joint ambulance district shall provide for the employment of such employees as it considers best..."). R.C. 9.60 and R.C. 505.72 authorize the board of trustees to enter into contracts to obtain or furnish ambulance or emergency medical services. The statutes directed specifically to joint ambulance districts do not, however, address the issue of how moneys of such a district are to be invested.

R.C. Chapter 135, known as the Uniform Depository Act, contains general provisions relating to the deposit and investment of public moneys of the state and its political subdivisions. R.C. 135.01 includes the following definitions:

Except as otherwise provided in section 135.181¹ of the Revised Code, as used in sections 135.01 to 135.21 of the Revised Code:

....
(D) "Governing board" means, in the case of the state, the state board of deposit; in the case of all school districts including county school districts except as otherwise provided in this section, the board of education, and when the case so requires, the board of commissioners of the sinking fund; in the case of a municipal corporation, the legislative authority, and when the case so requires, the board of trustees of the sinking fund; in the case of a township, the board of township trustees; in the case of a union or joint institution or enterprise of two or more subdivisions not having a treasurer, the board of directors or trustees thereof; and in the case of any other subdivision electing or appointing a treasurer, the directors, trustees, or other similar officers of such subdivision. The governing board of a subdivision electing or appointing a treasurer shall be the governing board of all other subdivisions for which such treasurer is authorized by law to act. A county school district shall operate as a governing board unless it adopts a resolution designating the board of county commissioners as the governing board for the county school district.

....
(K) "Public moneys" means all moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the treasurer of state or of the treasurer of any subdivision. "Public moneys of the state" includes all such moneys coming lawfully into the possession of the treasurer of state; and "public moneys of a subdivision" includes all such moneys coming lawfully into the possession of the treasurer of the subdivision.

(L) "Subdivision" means any municipal corporation, except one which has adopted a charter under Article XVIII, Ohio Constitution, and the charter or ordinances of the chartered municipal corporation set forth special provisions respecting the deposit or investment of its public moneys, or any school district, including a county school district, township, municipal or school district sinking fund, special taxing or assessment district, or other district or local authority electing or appointing a treasurer, except a county. In the case of a school district, special taxing or assessment district, or other local authority for which a treasurer, elected or appointed primarily as the treasurer of a subdivision, is authorized or required by law to act as ex officio treasurer, the subdivision for which such a treasurer has been primarily elected or appointed shall be considered to be the "subdivision." The term also includes a union or

¹ R.C. 135.181 contains pledging requirements that may be followed, in lieu of those prescribed in R.C. 135.18 and R.C. 135.37, to provide security for the repayment of moneys held in public depositories.

joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law.

(M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees. (Emphasis and footnote added.)

As noted above, a joint ambulance district is a union or joint institution or enterprise of two or more subdivisions. Although such a district may hire employees, including a clerk, it is not authorized by statute to elect or appoint a treasurer, and no public official is designated as its treasurer. Thus, it appears that a joint ambulance district is, under R.C. 135.01(L), "a union or joint institution or enterprise of two or more subdivisions, that is not authorized to elect or appoint a treasurer, and for which no ex officio treasurer is provided by law." A joint ambulance district is, therefore, a "subdivision" as that term is defined in R.C. 135.01(L). The governing board of the district, for purposes of R.C. 135.01-.21, is its board of trustees. See R.C. 135.01(D) (defining "governing board" to mean "in the case of a union or joint institution or enterprise of two or more subdivisions not having a treasurer, the board of directors or trustees thereof").²

The board of trustees of the joint ambulance district acts as treasurer of the district under R.C. 135.01(M), and has the

² The definitional scheme contained in R.C. 135.01 is somewhat circular, in that R.C. 135.01(D) defines the governing board of a union or joint institution or enterprise of two or more subdivisions not having a treasurer as the board of directors or trustees of the joint entity, while R.C. 135.01(M) defines "treasurer" to mean, "[i]n the case of...a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer,...such...board of directors or trustees." R.C. 135.01(M) thus defines the "treasurer" of a union or joint institution or enterprise that has no treasurer. It might be argued that, if the definition appearing in R.C. 135.01(M) were applied literally to R.C. 135.01(D), there would be no "union or joint institution or enterprise of two or more subdivisions not having a treasurer." See generally 1983 Op. Att'y Gen. No. 83-055. It is, however, the clear intent of R.C. 135.01(L) to include as a "subdivision" a union or joint institution or enterprise of two or more subdivisions "that is not authorized to elect or appoint a treasurer, and for whom no ex officio treasurer is provided by law," notwithstanding that the board of directors or trustees of such an entity is, pursuant to R.C. 135.01(M), considered to be its treasurer for purposes of R.C. 135.01-.21.

powers and duties set forth in the applicable provisions of R.C. Chapter 135 with respect to the deposit or investment of district moneys. See R.C. 135.01(K). Cf. 1973 Op. Att'y Gen. No. 73-119 at 2-457 ("the funds of [a] regional tax collection agency [formed as a regional council of governments under R.C. Chapter 167]..., which is a joint enterprise of numerous municipalities, are to be deposited or invested in accordance with the Uniform Depository Act [R.C. Chapter 135]. Since the agency has no treasurer, its 'governing board', as defined in the Act, is its Board of Trustees"). See generally 1973 Op. Att'y Gen. No. 73-111.

In the absence of provisions granting the board of trustees of a joint ambulance district authority to make other deposits or investments, it must be concluded that the board may deposit and invest moneys of the district only as authorized by R.C. Chapter 135. See generally, e.g., 1979 Op. Att'y Gen. No. 79-048 at 2-152 ("[a]bsent specific statutory authorization, public moneys cannot be loaned or invested by the officers in charge thereof" (citations omitted)); 1966 Op. Att'y Gen. No. 66-067;³ 1957 Op. Att'y Gen. No. 1439, p.758 at 764 (pursuant to R.C. Chapter 135, "a joint township hospital district is a subdivision and the funds derived from a special operating levy and which are held by the joint township district hospital board are public moneys to be deposited or invested in compliance with the provisions of that chapter"); 1956 Op. Att'y Gen. No. 7398, p. 765 (syllabus) ("Section 6101.51, Revised Code, making special provision as to the powers of a conservancy district to invest and deposit its funds, is an exception to the general provisions of the uniform depository act, Chapter 135., Revised Code, relative to the deposit of inactive funds of the state and of the several subdivisions of the state"); 1950 Op. Att'y Gen. No. 1644, p. 195; 1937 Op. Att'y Gen. No. 995, vol. II, p. 1738 at 1739 (G.C. 2296-15a [now R.C. 135.18], a portion of the Uniform Depository Act, "deals with the safety of public moneys, must be strictly construed and its provisions are mandatory, unless it is clearly manifest that they are reclaratory [sic] or directory"). R.C. 135.01 contains definitions of "active," "inactive," and "interim" deposits, see R.C. 135.01(A), (E), (F), and various provisions of R.C. Chapter 135 govern those types of deposits. See, e.g., R.C. 135.04; R.C. 135.05; R.C. 135.07 (award of inactive deposits); R.C. 135.09 (award of interim deposits); R.C. 135.13; R.C. 135.14 (investment of interim moneys); R.C. 135.45.

³ 1966 Op. Att'y Gen. No. 66-067 states, in the syllabus:

A joint township district hospital board may, pursuant to Section 513.15, Revised Code, accept and hold a gift or bequest of stocks or bonds, but in the absence of a power specifically granted in the terms of the gift or bequest, funds derived from the sale of such stocks or bonds may be invested by the said board only as authorized by Chapter 135, Revised Code.

I am not, in this opinion, considering gifts or bequests that purport to authorize the board of trustees of a joint ambulance district to make deposits or investments other than those authorized by R.C. Chapter 135.

You have inquired specifically about the deposit of "interim moneys." R.C. 135.01(F) defines that term as follows:

"Interim moneys" means public moneys in the treasury of the state or any subdivision after the award of inactive deposits has been made in accordance with section 135.07 of the Revised Code, which moneys are in excess of the aggregate amount of the inactive deposits as estimated by the governing board prior to the period of designation and which the treasurer or governing board finds should not be deposited as active or inactive deposits for the reason that such moneys will not be needed for immediate use but will be needed before the end of the period of designation.

As your letter indicates, R.C. 135.14⁴ authorizes the governing board of a subdivision to invest or deposit interim moneys in the various classifications of obligations listed in that section, subject to the limitations contained therein. In addition, R.C. 135.04 and R.C. 135.09 authorize the deposit of interim moneys in certain banks and building and loan associations. See R.C. 135.03; R.C. 135.08. See also R.C. 135.45 (authorizing the governing board of a subdivision to pay public moneys of the subdivision into the Ohio Subdivision's Fund, which may be established in the custody of the Treasurer of State and invested by the Treasurer, with certain exceptions, as interim moneys of the state are invested). The board of trustees of a joint ambulance district, as the governing board of the district under R.C. Chapter 135, may invest or deposit moneys of the district as provided in those sections or in other applicable provisions of R.C. Chapter 135.

It is, therefore, my opinion, and you are hereby advised, as follows:

1. Pursuant to R.C. 135.01, the board of trustees of a joint ambulance district created under R.C. 505.71 is the governing board of the district and is authorized to deposit or invest the moneys of the district in accordance with the applicable provisions of R.C. Chapter 135.
2. Pursuant to R.C. 135.14, the board of trustees of a joint ambulance district may invest or deposit the interim moneys of the district in any of the classifications of obligations named in that section, subject to the limitations contained therein.

⁴ R.C. 135.14 states, in part:

The treasurer or governing board may invest or deposit any part or all of the interim moneys, provided that such investments will mature or are redeemable within two years from the date of purchase, except as otherwise limited in this section. The following classifications of obligations shall be eligible for such investment or deposit....