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SYLLABUS:

A board of county commissioners may establish and operate a base radio station to receive and transmit official fire activity messages from and to the fire departments of political subdivisions in the county which operate fire departments and which may care to join in such network, provided that agreements are entered into between the county and the political subdivisions involved, under Sections 307.15 and 307.16, Revised Code, for the furnishing of such services by the board.

Columbus, Ohio, February 5, 1963

Hon. Tom Richards

Prosecuting Attorney

Carroll County

Carrollton, Ohio

Dear Sir:

Your request for an opinion reads, in part, as follows :

“* * *The commissioners of this county desire to know whether they have the power to expend funds for the purchase and installation in the county court house of a base station for the purpose of receiving and transmitting official fire activity messages from and to all the fire departments in this county who may care to join in such network and who may care to contribute to and participate in said base station and network for official fire activity communications.”

As you are no doubt aware, it has long been established in this

state that boards of county commissioners, being creatures of statute, are strictly limited in their powers to those expressly granted by statute and those necessarily implied from those expressly granted (see 14 Ohio Jurisprudence 2d, 259-60, and the cases there cited). If a board of county commissioners is possessed of the power about which you ask, then, the necessary authority must appear in a state statute or be a necessary implication therefrom.

On reviewing the laws of this state I have not found that authority to establish a base station such as here concerned has been granted directly to a board of county commissioners. It does appear, however, that under certain circumstances, such body may become possessed of that authority by agreement with other political subdivisions, which other subdivisions are expressly granted such authority.

Section 307.15, Revised Code, provides as follows:

“The board of county commissioners may enter into an agreement with the legislative authority of any municipal corporation, township, port authority, water or sewer district, school district, library district, health district, park district, soil conservation district, water conservancy district, or other taxing district, or with the board of any other county, and such legislative authorities may enter into agreements with the board, whereby such board undertakes, and is authorized by the contracting subdivision, to exercise any power, perform any function, or render any service, in behalf of the contracting subdivision or its legislative authority, which such subdivision or legislative authority may exercise, perform, or render.

“Upon the execution of such agreement and within the limitations prescribed by it, the board 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, it undertakes to perform or render, and all powers necessary or incidental thereto, as amply as such powers are 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 shall be exercised or performed, the board shall determine and assign such powers and duties. Sections 307.14 to 307.19, inclusive, of the Revised Code, or any agreement authorized by such sections, shall not suspend the possession by a contracting

subdivision of any power or function exercised or performed by the board in pursuance of such agreement. Nor shall the board, by virtue of any agreement entered into under this section, acquire any power to levy taxes within and in behalf of a contracting subdivision unless approved by a majority of the electors of the contracting subdivision.

“The boards of county commissioners of any two or more counties may contract with each other or by contract create any joint agency to exercise any power, perform any function, or render any service which any board of county commissioners may exercise, perform, or render.”

And, Section 307.16, Revised Code, provides :

“Every agreement entered into under section 307.14 to 307.19, inclusive, of the Revised Code, 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 treasury of the amounts due from taxes collected for the contracting subdivision and the county auditor and county treasurer shall be governed by any such provision in settling the accounts for such taxes.

“Any agreement entered into by and between two or more boards of county commissioners shall specify the method of payment for the joint exercise of any power, the joint performing of any function, or the joint rendering of any service which method of payment shall be authorized and binding on the counties so long as the agreement is in effect.”

In your question you refer to “fire departments * * * who may care to contribute to and participate in such base station and network.” So far as contribution and participation are concerned, I assume you refer to the legislative authorities of the various political subdivisions which have authority under the Revised Code to establish and maintain the fire departments of which you speak. As to these political subdivisions there appears to me no doubt that the action proposed in your question could be lawfully undertaken. See Section 715.05 and 737.24, Revised Code, as to municipal corporations and Section 505.37, Revised Code, as to townships. This being so, I would conclude that, pursuant to an appropriate agreement in

accordance with the provisions of Sections 307.15 and 307.16, *supra*, a board of county commissioners could lawfully undertake the action proposed in your question. Absent such an agreement, I must conclude that such action could not lawfully be undertaken by that body.

Accordingly, it is my opinion and you are advised that a board of county commissioners may establish and operate a base radio station to receive and transmit official fire activity messages from and to the fire departments of political subdivisions in the county which operate fire departments and which may care to join in such network, provided that agreements are entered into between the county and the political subdivisions involved, under Sections 307.15 and 307.16 Revised Code, for the furnishing of such services by the board.

Respectfully,

WILLIAM B. SAXBE

Attorney General