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SYLLABUS:

Where empowered by the board, or boards, of county commissioners creating it, an airport agency has the authority to pay a premium rate to employees working overtime in cases of emergency.

Columbus, Ohio, March 25, 1963

Hon. John S. Ballard
Prosecuting Attorney
Summit County
Akron, Ohio

Dear Sir:

I have before me your request for my opinion as to whether the Akron-Canton Airport Agency has the authority to pay premium overtime for emergency snow removal from runways, and to pay premium overtime for other emergency work.

It is my understanding that this airport agency was created pursuant to the authority of Section 307.15, Revised Code, which provides in part as follows:

“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.”

It is my further understanding that the agreement between the Boards of County Commissioners of Summit and Stark Counties creates an airport agency consisting of eight members, four from each county, with the general authority to manage the airport facility and the specific authority to establish rules and regulations to this end.

The agency, of course, can have no greater rule-making power than the boards of county commissioners creating it, and it is therefore necessary to consider the authority of county commissioners to fix premium pay for overtime.

Section 305.16, Revised Code, reads as follows:

“The board of county commissioners may employ a superintendent, and such watchmen, janitors, and other employees as are necessary for the care and custody of the court house, jail, and other county buildings, bridges, and other property under its jurisdiction and control.”
Section 305.17, Revised Code, provides in turn:

“The board of county commissioners shall fix the compensation of all persons appointed or employed under sections 305.13 to 305.16, inclusive, of the Revised Code, which, with their reasonable expenses, shall be paid from the county treasury upon the allowance of the board. No law requiring a certificate that the money for such compensation and expenses is in the treasury shall apply to the appointment or employment of such persons.”

It will be seen from a reading of the above sections that a board of county commissioners has the authority to hire and fix the compensation of employees necessary to the management of an airport facility. Neither these sections, nor any other section that I am aware of, limit a board of county commissioners in determining the rate or basis of payment of compensation. The broad

authority to fix compensation would seemingly include the authority to pay any premium rates for overtime.

Any doubt as to this authority would seem to be removed by the exigency of the situation. The authority to create and manage an airport facility would clearly seem to carry with it the implied authority to employ personnel on any reasonable basis necessary to insure the protection of persons using such facility. The reasonableness of premium pay for overtime is demonstrated to my satisfaction by the extent to which it is found (and indeed required by law in most instances) in collective bargaining contracts.

The same reasoning is applicable to the payment of a premium rate by a county engineer for overtime on similar emergency work on county highways.

In specific answer to your question, therefore, I am of the opinion that where empowered by the board, or boards, of county commissioners creating it, an airport agency has the authority to pay a premium rate to employees working overtime in cases of emergency.

Respectfully,
WILLIAM B. SAXBE
Attorney General