

**Note from the Attorney General's Office:**

The syllabus paragraph 8 of 2015 Op. Att'y Gen. No. 2015-004 was followed by 2017 Op. Att'y Gen. No. 2017-001.

February 5, 2015

The Honorable D. Andrew Wilson  
Clark County Prosecuting Attorney  
50 East Columbia Street, Suite 449  
Springfield, Ohio 45502

SYLLABUS:

2015-004

1. A board of county commissioners and a municipal corporation may establish a regional council of governments (1) to operate a public safety answering point under R.C. Chapter 128 and, (2) if the regional council of governments is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08, to operate a countywide public safety communications system pursuant to R.C. 307.63.
2. A regional council of governments that operates a public safety answering point under R.C. Chapter 128 may not receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are provided in association with the public safety answering point. A regional council of governments may, however, receive funding for the costs of establishing, equipping, furnishing, operating, or maintaining a public safety answering point operated by the regional council of governments as set forth in the formula in the county's final 9-1-1 plan adopted pursuant to R.C. 128.03 and R.C. 128.07.
3. A regional council of governments has no authority pursuant to R.C. Chapter 128 to receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are not provided in association with a public safety answering point.
4. A regional council of governments has no authority pursuant to R.C. 307.63 to receive funding through contracts for dispatch services provided to other

political subdivisions when the dispatch services are not provided in association with a public safety answering point.

5. A regional council of governments may receive funding from a contract with a municipal corporation or township within the county pursuant to R.C. 307.15 for dispatch services provided by the regional council of governments to the municipal corporation or township when the dispatch services are not provided in association with a public safety answering point, so long as the regional council of governments is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08.
6. A regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a municipal corporation or township pursuant to R.C. 311.29 for dispatch services provided by the regional council of governments to the municipal corporation or township when the dispatch services are not provided in association with a public safety answering point.
7. A regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a township pursuant to R.C. 505.43 for dispatch services provided by the regional council of governments to the township when the dispatch services are not provided in association with a public safety answering point.
8. Pursuant to R.C. 167.06, a county auditor may serve as the fiscal officer of a regional council of governments. (1989 Op. Att’y Gen. No. 89-063, syllabus, paragraph 7, overruled.)



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February 5, 2015

OPINION NO. 2015-004

The Honorable D. Andrew Wilson  
Clark County Prosecuting Attorney  
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Springfield, Ohio 45502

Dear Prosecutor Wilson:

You have asked several questions related to a regional council of governments. The Clark County board of commissioners would like to enter into an agreement with the City of Springfield, a municipal corporation located within the county, to establish a regional council of governments. The regional council of governments will be formed for the purpose of operating a countywide public safety communications system under R.C. 307.63 and a public safety answering point under R.C. Chapter 128.

The regional council of governments will be funded by contributions from its members, the county and the city, pursuant to the agreement establishing the council. The county and city also would like to fund the council's operations through contracts for dispatch services provided to other political subdivisions within the county. It also is our understanding that Clark County previously adopted a 9-1-1 final plan in accordance with R.C. Chapter 128. The county and city believe that consolidating dispatch services will provide more effective, efficient, and less expensive services than are currently provided by several separate agencies.

Because the county commissioners would like to fund the regional council's operations through contracts for dispatch services provided to other political subdivisions, your first five questions ask whether a regional council of governments may enter contracts to provide dispatch services pursuant to various statutes and receive funding through those contracts. Your remaining questions ask whether particular county officers or employees may be appointed to serve as the fiscal officer of a regional council of governments. Specifically, you ask:

1. Can the board of county commissioners and the city establish a regional council of governments, for the purpose of operating a public safety answering point under R.C. Chapter 128 and a countywide public safety communications system under R.C. 307.63, that receives funding through contracts for dispatch services provided to other political subdivisions within the county pursuant to R.C. Chapter 128?

2. Can the regional council of governments that the board of county commissioners and the city intend to establish receive funding through contracts for dispatch services provided to other political subdivisions within the county pursuant to R.C. 307.63?
3. Can the regional council of governments receive funding through contracts for dispatch services provided to other political subdivisions within the county pursuant to R.C. 307.15?
4. Can the regional council of governments receive funding through contracts for dispatch services provided to other political subdivisions within the county pursuant to R.C. 311.29?
5. Can the regional council of governments receive funding through contracts for dispatch services provided to other political subdivisions within the county pursuant to R.C. 505.43?
6. If the regional council of governments agreement and by-laws provide for the regional council of governments' funds to be kept under the custody of the county treasurer, can the county auditor be appointed as the fiscal officer of the regional council of governments?
7. If the county auditor cannot be appointed as the regional council of governments' fiscal officer, can an employee of the county auditor be appointed as fiscal officer?
8. If the answer to the sixth and seventh question is in the negative, can the county treasurer or an employee of the county treasurer be appointed as fiscal officer?

### **Regional Councils of Governments—R.C. Chapter 167**

Regional councils of governments are governed primarily by R.C. Chapter 167. The governing bodies of two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions may enter into an agreement to establish a regional council of governments. R.C. 167.01.<sup>1</sup> Membership in the regional council consists of the political subdivisions

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<sup>1</sup> A regional council of governments, being formed of various political subdivisions, is not a county board or an agency or department of county government. 2012 Op. Att'y Gen. No. 2012-026, at 2-224. Therefore, a county prosecutor is under no duty to advise such a council. *See* R.C. 309.09; 2012 Op. Att'y Gen. No. 2012-026, at 2-224; 1989 Op. Att'y Gen. No. 89-063, at 2-271; 1986 Op. Att'y Gen. No. 86-084, at 2-472 to 2-473; 1986 Op. Att'y Gen. No. 86-068, at 2-374. The Attorney General, then, generally is not able to render advice to a county prosecutor with respect to the powers

that established the council as well as other political subdivisions subsequently admitted to membership. R.C. 167.02(A).

The powers of a regional council of governments are set forth in R.C. 167.03. A regional council of governments is authorized to operate a public safety answering point. R.C. 167.03(A)(5). A regional council also is authorized to promote cooperative arrangements and contracts, make studies and recommendations, and perform planning functions. R.C. 167.03(A); *see also* R.C. 167.03(B). Additionally, a regional council of governments may be empowered to perform a variety of functions on behalf of its member subdivisions. R.C. 167.03(C) permits a regional council to “perform such other functions and duties as are performed or capable of performance by the members and necessary or desirable for dealing with problems of mutual concern” when authorized by the governing bodies of the member subdivisions. The council also may contract with its members or other political subdivisions to provide or receive services. R.C. 167.08. Such a contract also may authorize the council “to perform any function or render any service” on behalf of a political subdivision that the political subdivision may perform or render. *Id.*

A regional council of governments is governed, *inter alia*, by its by-laws. By-laws must be adopted designating the officers of the council and their method of selection, creating a governing board that may act for the council, and providing for the conduct of the council’s business. R.C. 167.04(A). A regional council also appoints a fiscal officer who maintains the funds of the regional council. *See* R.C. 167.04(B) (fiscal officer “shall receive, deposit, invest, and disburse the funds of the council in the manner authorized by the by-laws or action by the council”); 1989 Op. Att’y Gen. No. 89-063, at 2-273. Funding for a regional council of governments primarily comes from appropriations by its members. *See* R.C. 167.06; 1989 Op. Att’y Gen. No. 89-063, at 2-273. A regional council of governments may establish schedules of dues to be paid by its voting members. R.C. 167.06(A). Members of a regional council of governments also may provide real and personal property, services of personnel, use of equipment, office space, and other necessary services to the council as part of their financial support. R.C. 167.06(A). A regional council of governments also has broad authority to accept funds, grants, gifts, and services from its members, other governmental entities, and private or civic sources. R.C. 167.06(A)-(B).

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of a regional council of governments. *See* R.C. 109.14; 2012 Op. Att’y Gen. No. 2012-026, at 2-225; 1989 Op. Att’y Gen. No. 89-063, at 2-271; 1986 Op. Att’y Gen. No. 86-084, at 2-472 to 2-473; 1986 Op. Att’y Gen. No. 86-068, at 2-374.

Here, however, the county is exploring the establishment of a regional council of governments and needs advice regarding how such a council may be funded and who may be appointed fiscal officer of the council. Your questions, therefore, reflect the concerns of the board of county commissioners, which is entitled to your legal counsel under R.C. 309.09. Accordingly, we believe that your questions involve the duties of your office about which we may advise you under R.C. 109.14. *See* 2012 Op. Att’y Gen. No. 2012-026, at 2-225; 1989 Op. Att’y Gen. No. 89-063, at 2-271; 1986 Op. Att’y Gen. No. 86-068, at 2-374.

### **Countywide Public Safety Communications Systems—R.C. 307.63**

A board of county commissioners is authorized to establish a countywide public safety communications system pursuant to R.C. 307.63(B). A countywide public safety communications system is defined as

a system of communications facilities, equipment, and services that helps to provide immediate field exchange of police, fire, and emergency medical services information between the county and participating states, political subdivisions, and other public entities, without regard to which jurisdiction holds title to real or personal property used in the system or employs the persons responsible to dispatch emergency personnel using the system.

R.C. 307.63(A). In other words, a countywide public safety communications system enables police, fire, and emergency medical services personnel to communicate directly between themselves. *State ex rel. Simmons v. Geauga Cnty. Dep't of Emergency Servs.*, 131 Ohio App. 3d 482, 495, 722 N.E.2d 1063 (Geauga County 1998) (“R.C. 307.63 was meant to apply only to those communication facilities, equipment, and services which enable the officer of one department to convey ‘field’ information to an officer of a second department”); 1998 Op. Att’y Gen. No. 98-032, at 2-179 n.1 (a countywide public safety communications system “enables police, fire, and emergency medical services personnel of either the same or different political subdivisions to have direct communications with each other for the purpose of coordinating their provision of emergency aid or assistance”).

R.C. 307.63 also gives a board of county commissioners specific contracting authority related to a countywide public safety communications system. A board of county commissioners may contract for communications facilities, computers and other equipment, and personal services in association with the countywide public safety communications system. R.C. 307.63(C). Further, a board of county commissioners “may enter into agreements with this state, political subdivisions of this state, an adjoining state or any of its political subdivisions, or any other public entity concerning the use of the countywide public safety communications system.” R.C. 307.63(D).

### **Public Safety Answering Points—R.C. Chapter 128**

A public safety answering point is part of a countywide 9-1-1 system, which is governed by R.C. Chapter 128.<sup>2</sup> A countywide 9-1-1 system is “a system through which individuals can request emergency service using the telephone number 9-1-1.” R.C. 128.01(A). When a person in Ohio calls

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<sup>2</sup> The Revised Code sections governing a countywide 9-1-1 system have been renumbered several times in recent years. In 2012, the provisions governing a countywide 9-1-1 system that appeared in R.C. Chapter 4931 were recodified in R.C. Chapter 5507. Sub. H.B. 360, 129th Gen. A. (2012) (eff. Dec. 20, 2012). In 2013, the provisions governing a countywide 9-1-1 system in R.C. Chapter 5507 were recodified in R.C. Chapter 128. Am. Sub. H.B. 59, 130th Gen. A. (2013) (eff. June 30, 2013, with certain sections effective on other dates).

9-1-1, the call is routed to a public safety answering point, a facility “where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.” R.C. 128.01(P); *see also* 2014 Op. Att’y Gen. No. 2014-013, at 2-106. “[C]ountywide public safety communications systems and countywide 9-1-1 systems serve distinctly different purposes.” 1999 Op. Att’y Gen. No. 99-017, at 2-128. We have explained:

it is readily apparent that a countywide 9-1-1 system is a communications system whereby the public can request emergency service. The primary purpose of a countywide 9-1-1 system is to dispatch the appropriate emergency service provider to a location. A countywide 9-1-1 system is not used to provide immediate field exchange of police, fire, and emergency medical services information between the county and other political subdivisions. Accordingly, because a countywide 9-1-1 system is not used to provide immediate field exchange of police, fire, and emergency medical services information between the county and other subdivisions, a countywide 9-1-1 system ... is not a countywide public safety communications system, as defined by R.C. 307.63(A).

1998 Op. Att’y Gen. No. 98-032, at 2-180; *see also* 2010 Op. Att’y Gen. No. 2010-021, at 2-144 n.1.

Generally, a countywide 9-1-1 system includes all of the townships and municipal corporations in the county and any portion of such a municipal corporation that extends into an adjacent county. R.C. 128.03(A). The process for establishing a countywide 9-1-1 system begins when a board of county commissioners or the legislative authority of any municipal corporation in the county with at least thirty percent of the county’s population adopts a resolution to convene a 9-1-1 planning committee to prepare a proposal for the implementation of a countywide 9-1-1 system. R.C. 128.06-.07. After a public meeting to explain the proposal and to receive comments from public officials, the 9-1-1 planning committee may modify the implementation proposal and adopt a final plan for implementing a countywide 9-1-1 system. R.C. 128.07. A final plan becomes effective when it is approved in the manner set forth in R.C. 128.08 by the board of county commissioners, the legislative authority of each municipal corporation in the county, and the legislative authority of each township whose territory is proposed to be included in a countywide 9-1-1 system. R.C. 128.08. Once a final plan is adopted, all subdivisions and regional councils of governments included in the plan are subject to the requirements of the final plan and to R.C. Chapter 128. R.C. 128.08(C). Every emergency service provider that provides emergency service within the territory of the countywide 9-1-1 system also must participate in the system. R.C. 128.03(C); *see also* R.C. 128.01(N) (defining “emergency service”); R.C. 128.01(O) (defining “emergency service provider”).

The operation of each public safety answering point in a countywide 9-1-1 system is governed by the relevant provisions of R.C. Chapter 128 and the terms of the county’s final plan. As previously noted, a public safety answering point “is the facility to which 9-1-1 calls for a specific territory are routed for response.” 2000 Op. Att’y Gen. No. 2000-044, at 2-270; R.C. 128.01(P). R.C. 128.03(D)(1) provides that “[e]ach public safety answering point shall be operated by a subdivision or a regional council of governments and shall be operated constantly.” Additional, more specific



provisions regarding the establishment and operation of the public safety answering points in a countywide 9-1-1 system must be set forth in the final plan. R.C. 128.07(B). For example, the final plan must set forth the location and number of public safety answering points, which subdivisions will be served by the answering point, and which subdivision or regional council of governments will establish, equip, furnish, operate, and maintain a particular public safety answering point. R.C. 128.07(B)(2), (3).

The funding of each public safety answering point in a countywide 9-1-1 system also is governed by the relevant provisions of R.C. Chapter 128 and the terms of the county's final plan. R.C. 128.03(D)(2) states that a subdivision or regional council of governments that operates a public safety answering point shall pay all of the costs associated with establishing, equipping, furnishing, operating, and maintaining that facility and "shall allocate those costs among itself and the subdivisions served by the answering point *based on the allocation formula in a final plan.*" (Emphasis added.) Unless the final plan provides for funding of a 9-1-1 system in part through charges imposed on improved real property under R.C. 128.22, R.C. 128.03(E) requires each subdivision served by a public safety answering point to pay the subdivision or regional council of governments that operates the answering point "the amount computed in accordance with the allocation *formula set forth in the final plan.*" (Emphasis added.) The final plan, in turn, is required to specify "[w]hether the cost of establishing, equipping, furnishing, operating, or maintaining each public safety answering point should be funded through charges imposed under [R.C. 128.22] or will be allocated among the subdivisions served by the answering point and, if any such cost is to be allocated, the formula for so allocating it." R.C. 128.07(B)(5); *see also* 2014 Op. Att'y Gen. No. 2014-013, at 2-107. Therefore, the costs of a public safety answering point must be paid in accordance with the terms of a final plan.<sup>3</sup> *See* 2014 Op. Att'y Gen. No. 2014-013, at 2-107.

Once a final plan is established, R.C. 128.12 requires the amendment of such a plan for certain purposes. For example, a final plan must be amended in order to expand the territory included in the countywide 9-1-1 system, to adjust the territory served by a public safety answering point, to permit a regional council of governments to operate a public safety answering point, or to re prescribe the funding "as between the alternatives" set forth in R.C. 128.07(B)(5), which requires funding of public safety answering points through charges imposed under R.C. 128.22 or allocating the costs pursuant to a formula among the subdivisions served by the answering point. R.C. 128.12(A); *see also* 2010 Op. Att'y Gen. No. 2010-021, at 2-147 to 2-148.

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<sup>3</sup> Although the General Assembly has provided two funding options for counties where a final plan either has not been adopted or has not been implemented because of a lack of funding, *see* R.C. 128.25-.26; 2000 Op. Att'y Gen. No. 2000-044, at 2-270 to 2-271, we need not address these funding options because it is our understanding that Clark County has adopted and implemented a final plan.

### **Regional Council of Governments May Operate a Public Safety Answering Point and a Countywide Public Safety Communications System**

You first ask whether a board of county commissioners and a city may establish a regional council of governments for the purpose of operating a public safety answering point under R.C. Chapter 128 and a countywide public safety communications system under R.C. 307.63. A regional council of governments has express statutory authority to operate a public safety answering point.<sup>4</sup> R.C. 167.03(A)(5) (a regional council shall have the power to “[o]perate a public safety answering point in accordance with [R.C. Chapter 128]”); *see also* R.C. 128.03(D)(1) (“[e]ach public safety answering point shall be operated by a subdivision or a regional council of governments”).

A regional council of governments also is expressly permitted to “perform such other functions and duties as are performed or capable of performance by the members and necessary or desirable for dealing with problems of mutual concern” when authorized by the governing bodies of the member subdivisions. R.C. 167.03(C). A regional council also is permitted to enter into contracts with political subdivisions, including member political subdivisions, that authorize the council “to perform any function or render any service” on behalf of the political subdivisions, which such political subdivisions may perform or render. R.C. 167.08; *see also* 2012 Op. Att’y Gen. No. 2012-026, at 2-226 to 2-227 (political subdivisions, “including the member political subdivisions of a regional council of governments,” may contract with the regional council under R.C. 167.08); 1998 Op. Att’y Gen. No. 98-004, at 2-23 (a regional council of governments “may contract with its members or other political subdivisions” under R.C. 167.08); 1982 Op. Att’y Gen. No. 82-103, at 2-282 to 2-283 (under R.C. 167.08, a regional council of governments may perform functions and duties on behalf of a member political subdivision); 1969 Op. Att’y Gen. No. 69-013, at 2-16 (R.C. 167.08 “specifically provides that any one or group of political subdivisions may contract with the council to perform any function which the subdivisions themselves may perform. This language appears clearly to be broad enough to enable the council to perform purchasing on behalf of its contracting members”). A board of county commissioners is authorized to establish a countywide public safety communications system pursuant to R.C. 307.63. Therefore, a regional council of governments may establish a countywide public safety communications system pursuant to R.C. 307.63 so long as the regional council is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08.

In sum, a board of county commissioners and a municipal corporation may establish a regional council of governments (1) to operate a public safety answering point under R.C. Chapter 128 and, (2) if the regional council of governments is authorized to act on behalf of the board of

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<sup>4</sup> A county’s final 9-1-1 plan must specify which subdivision or regional council of governments will establish, equip, furnish, operate, and maintain a particular public safety answering point. R.C. 128.07(B)(3). If a county’s final plan does not specify that a regional council of governments will operate a particular public safety answering point, R.C. 128.12(A)(4) requires that the final plan be amended to permit the regional council of governments to operate the public safety answering point.

county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08, to operate a countywide public safety communications system pursuant to R.C. 307.63.

### **Funding For Dispatch Services Provided In Association with a Public Safety Answering Point**

You ask about the authority of a regional council of governments pursuant to R.C. Chapter 128, R.C. 307.63, R.C. 307.15, R.C. 311.29, and R.C. 505.43 to receive funding through contracts “for dispatch services provided to other political subdivisions within the county.” Your questions do not distinguish between funding for dispatch services provided in association with a public safety answering point pursuant to R.C. Chapter 128 and funding for dispatch services that are not associated with a public safety answering point (in other words, dispatch services that are separate from the dispatch services provided by personnel of a public safety answering point in direct response to a 9-1-1 call). A countywide 9-1-1 system (of which public safety answering points are a part) and a countywide public safety communications system are separate systems. *See* 1999 Op. Att’y Gen. No. 99-017, at 2-128; 1998 Op. Att’y Gen. No. 98-032, at 2-180. They serve distinct purposes, are governed by different sections of the Revised Code, and, significantly, have different funding schemes. Therefore, to answer your questions whether a regional council of governments may receive funding through contracts “for dispatch services provided to other political subdivisions within the county,” we will separately consider the authority of a regional council of governments to fund dispatch services provided as part of a public safety answering point and to fund dispatch services that are not provided in association with a public safety answering point.

We first consider whether a regional council of governments has authority to receive funding through contracts for dispatch services provided to other political subdivisions within the county when the dispatch services are provided in association with a public safety answering point. A public safety answering point is a facility to which 9-1-1 system calls are routed for a response and personnel may respond to requests for emergency service by *directly dispatching* the appropriate emergency service provider. R.C. 128.01(P).

“[T]he General Assembly has carefully constructed a complex, detailed system for funding 9-1-1 systems,” including each public safety answering point within the county’s 9-1-1 system. 2000 Op. Att’y Gen. No. 2000-044, at 2-269. Under the framework established in R.C. Chapter 128, the costs associated with a public safety answering point shall be paid in the manner set forth in the county’s final 9-1-1 plan. *See* R.C. 128.06-.07; 2014 Op. Att’y Gen. No. 2014-013, at 2-107. A regional council of governments that operates a public safety answering point pays the costs of establishing, equipping, furnishing, operating, and maintaining that facility. R.C. 128.03(D)(2). Those costs are to be allocated between the regional council of governments and the subdivisions served by the answering point “based on the allocation formula in the final plan.” R.C. 128.03(D)(2); *see also* R.C. 128.07(B)(5). Each subdivision served by a public safety answering point is required to pay the regional council of governments that operates the answering point the amount set forth in the final plan. R.C. 128.03(E).

We believe that the comprehensive nature of the funding mechanisms prescribed by R.C. Chapter 128 indicates the General Assembly's intent to fund a public safety answering point in the manner set forth therein. That is, a public safety answering point is funded in accordance with the formula allocation in the county's final plan. Accordingly, a regional council of governments that operates a public safety answering point may not receive additional funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are provided in association with the public safety answering point operated by the regional council. Rather, a regional council of governments that operates a public safety answering point may receive funding for a public safety answering point only in accordance with the county's final plan.

This conclusion is supported by a prior Attorney General opinion in which we advised that a county sheriff who operates a public safety answering point may not receive funding through a contract with another political subdivision for dispatch services provided in association with the operation of that public safety answering point. 2010 Op. Att'y Gen. No. 2010-021. The opinion considers whether a county sheriff who operates a public safety answering point may charge a township that is served by the answering point a fee for receiving 9-1-1 calls and for dispatch services, and the opinion concludes that such a fee is not authorized. 2010 Op. Att'y Gen. No. 2010-021, at 2-144 to 2-146. The opinion explains that a sheriff who operates a public safety answering point is prohibited from charging a fee for receiving 9-1-1 calls and dispatching police and fire personnel in the township. *Id.* at 2-145 to 2-146. In part, the opinion reasons that a sheriff lacks statutory authority to charge a township for receiving calls and dispatching police and fire personnel. *Id.* at 2-145. Notably, the opinion further relies on the laws governing the funding for public safety answering points. "A review of the options available to a county to fund the operations and maintenance of [public safety answering points] discloses that the General Assembly has carefully and very specifically provided a comprehensive scheme for the funding of [public safety answering points]" and that scheme does not include "the imposition of fees by the operators" of public safety answering points. *Id.* at 2-146; *see also* 2009 Op. Att'y Gen. No. 2009-004, at 2-21 ("the cost of a 9-1-1 system as a whole is projected and then apportioned among the participating subdivisions.... Nowhere in the scheme are offices of a participating subdivision authorized to charge their own or other participating subdivisions fees to cover the costs their offices incur in operating a [public safety answering point]").

The 2010 opinion also considers whether a county sheriff who operates a public safety answering point and a township served by the answering point may enter into a contract whereby the township pays the sheriff for receiving 9-1-1 calls and for providing dispatch services. 2010 Op. Att'y Gen. No. 2010-021, at 2-146. The opinion relies on its earlier conclusion that a sheriff is prohibited from charging a township a fee for receiving 9-1-1 calls and providing dispatch services. *Id.* Accordingly, the opinion concludes that a sheriff who operates a public safety answering point and a township that is served by the answering point "may not enter into a contract whereby the township pays the sheriff for receiving 9-1-1 calls and dispatching police and fire personnel to respond to 9-1-1 calls in the township." *Id.* (syllabus, paragraph 2).

Accordingly, we conclude that a regional council of governments that operates a public safety answering point under R.C. Chapter 128 may not receive additional funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are provided in

association with the public safety answering point. A regional council of governments may, however, receive funding for the costs of establishing, equipping, furnishing, operating, or maintaining a public safety answering point operated by the council as set forth in the formula in the county's final 9-1-1 plan adopted pursuant to R.C. 128.03 and R.C. 128.07.

### **R.C. Chapter 128 Does Not Authorize a Regional Council of Governments to Receive Funding for Dispatch Services Provided to Other Political Subdivisions**

We next consider whether a regional council of governments has authority to receive funding through contracts for dispatch services provided to other political subdivisions within the county when the dispatch services are not provided in association with a public safety answering point (that is, the dispatch services are not provided by personnel of a public safety answering point in direct response to a 9-1-1 call). We will first determine whether a regional council of governments has this authority pursuant to R.C. Chapter 128.

R.C. Chapter 128 addresses dispatch services only in the context of a public safety answering point; no language in R.C. Chapter 128 addresses contracts for dispatch services generally. Nor does any language in R.C. Chapter 128 provide general contracting authority for a regional council of governments. Therefore, a regional council of governments has no authority pursuant to R.C. Chapter 128 to receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are not provided in association with a public safety answering point.

### **R.C. 307.63 Does Not Authorize a Regional Council of Governments to Receive Funding For Dispatch Services Provided to Other Political Subdivisions**

Next, we consider whether a regional council of governments has authority pursuant to R.C. 307.63 to receive funding through contracts for dispatch services provided to other political subdivisions within the county when the dispatch services are not provided in association with a public safety answering point. R.C. 307.63 does not provide such authority to a regional council of governments.

R.C. 307.63 addresses the authority of a board of county commissioners. We nevertheless consider this statute because a regional council of governments may be empowered to perform a variety of functions on behalf of its member subdivisions. *See* R.C. 167.03(C); R.C. 167.08.

R.C. 307.63 permits a board of county commissioners to establish a countywide public safety communications system. The statute also permits a board of county commissioners to enter into an agreement with other political subdivisions "concerning the use of the countywide public safety communications system." R.C. 307.63(D). Although the statute permits a board of county commissioners to enter into an agreement that permits other political subdivisions to use the countywide public safety communications system, including using the system to dispatch their own police officers, fire fighters, and emergency medical services personnel, the statute does not permit a county to charge a political subdivision for its use of the system. *See* 1995 Op. Att'y Gen. No. 95-004, at 2-17. Further, no language in R.C. 307.63 authorizes a board of county commissioners to enter into an agreement whereby the county may provide dispatch services to other political

subdivisions. Accordingly, a regional council of governments has no authority pursuant to R.C. 307.63 to receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are not provided in association with a public safety answering point.

**A Regional Council of Governments May Be Empowered to Receive Funding For Dispatch Services Provided to Other Political Subdivisions Under R.C. 307.15**

We next consider whether a regional council of governments has authority pursuant to R.C. 307.15 to receive funding through contracts for dispatch services provided to other political subdivisions within the county when the dispatch services are not provided in association with a public safety answering point. R.C. 307.15(A)(1) permits a board of county commissioners to:

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 and water conservation district, water conservancy district, or other taxing district, or with the board of any other county ... whereby the board undertakes, and is authorized by the contracting subdivision, to exercise any power, perform any function, or render any service, on behalf of the contracting subdivision or its legislative authority, that such subdivision or legislative authority may exercise, perform, or render.

R.C. 307.16 requires that an agreement under R.C. 307.15 specify the method of payment for the services provided pursuant to the agreement. Based on the language of R.C. 307.15 and R.C. 307.16, 1995 Op. Att’y Gen. No. 95-004, at 2-18 concluded that a board of county commissioners may enter into a contract to dispatch the police officers, fire fighters, and emergency personnel of townships and municipal corporations.<sup>5</sup> The opinion further advised that “[t]he allocation of costs incurred by the county in providing dispatching services to the municipal corporation or township is a matter that may

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<sup>5</sup> Municipal corporations and townships are authorized to provide police protection, fire protection, and emergency medical services to their citizens. R.C. 505.37-.42 (authorizing a township to provide fire protection and emergency medical services); R.C. 505.48-.55 (authorizing a township to provide police protection); R.C. 509.01 (a township may appoint constables to preserve the township peace); R.C. 715.05 (municipal corporations may maintain police and fire departments); R.C. 737.11 (describing powers and duties of police force and fire department of a municipal corporation); R.C. 5705.19(I) (authorizing township or municipal corporation to levy special tax for the purpose of providing a fire department or to purchase ambulance equipment, or to provide ambulance, paramedic, or other emergency medical services operated by a fire department); 1967 Op. Att’y Gen. No. 67-078 (syllabus, paragraph 2) (R.C. 715.37 authorizes a city to provide ambulance service as a related adjunct of hospital service). Because the power to dispatch emergency personnel is necessarily implied by the authority to provide police protection, fire protection, and emergency medical services, 1995 Op. Att’y Gen. No. 95-004 concluded, at 2-19, that municipal corporations and townships are authorized to establish a dispatch service.

be negotiated by the county and the municipal corporation or township as a part of the agreement for dispatching services that they enter into pursuant to R.C. 307.15.” *Id.* at 2-21.

A regional council of governments is permitted to perform functions and duties that are performed or are capable of performance by the council’s members and that are necessary or desirable for dealing with problems of mutual concern when authorized by the governing bodies of the member subdivisions. R.C. 167.03(C). A regional council also may enter into a contract with its members or other political subdivisions, including a board of county commissioners, that authorizes the council “to perform any function or render any service” on behalf of the political subdivisions, which such political subdivisions may perform or render. R.C. 167.08. *See also* 2012 Op. Att’y Gen. No. 2012-026, at 2-226 to 2-227; 1998 Op. Att’y Gen. No. 98-004, at 2-23; 1982 Op. Att’y Gen. No. 82-103, at 2-282 to 2-283; 1969 Op. Att’y Gen. No. 69-013, at 2-16. A board of county commissioners may enter into a contract with a municipal corporation or township pursuant to R.C. 307.15 whereby the county provides dispatch services, the costs of which may be negotiated as part of the contract. 1995 Op. Att’y Gen. No. 95-004 (syllabus, paragraph 2). Accordingly, a regional council of governments may enter into a contract with a municipal corporation or township pursuant to R.C. 307.15 to provide dispatch services, the costs of which may be negotiated as part of the contract, so long as the regional council is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08.

**A Regional Council of Governments May Be Empowered to Receive Funding For Dispatch Services Provided to Other Political Subdivisions Pursuant to R.C. 311.29 or R.C. 505.43**

Your final two questions require us to consider whether a regional council of governments has authority pursuant to R.C. 311.29 or R.C. 505.43 to receive funding through contracts for dispatch services provided to other political subdivisions within the county when the dispatch services are not provided in association with a public safety answering point. These statutes also were considered in 1995 Op. Att’y Gen. No. 95-004. R.C. 311.29 authorizes a county sheriff to enter into contracts with certain political subdivisions, including a township and municipal corporation, to perform police functions on behalf of the political subdivision that the political subdivision may perform. R.C. 311.29(B). R.C. 311.29(D) requires that a contract under R.C. 311.29 provide “for the reimbursement of the county for the costs incurred by the sheriff.” A township and a municipal corporation are authorized to dispatch their police officers. *See* 1995 Op. Att’y Gen. No. 95-004, at 2-21. Therefore, a township or a municipal corporation may enter into a contract with the county sheriff in which the county sheriff dispatches the officers of the township or municipal corporation, and the township or municipal corporation pays the county for the costs incurred by the sheriff under the contract. 1995 Op. Att’y Gen. No. 95-004, at 2-21.

R.C. 505.43 permits a township to contract with a county sheriff for use of police services or equipment of the sheriff, including dispatch services provided by the county sheriff. *See* 1995 Op. Att’y Gen. No. 95-004, at 2-21 to 2-22. The statute also provides for the payment of costs incurred by the county sheriff in his provision of dispatch services to a township. R.C. 505.43; *see also* 1995 Op. Att’y Gen. No. 95-004, at 2-22.

A regional council of governments may act on behalf of the “appropriate officials, authorities, boards, or bodies of counties, municipal corporations, townships, special districts, school districts, or other political subdivisions” by contract. R.C. 167.08. Thus, a regional council of governments may be empowered to act on behalf of a county sheriff. A regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a municipal corporation or township pursuant to R.C. 311.29 for dispatch services provided by the regional council of governments to the municipal corporation or township when the dispatch services are not provided in association with a public safety answering point. Similarly, a regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a township pursuant to R.C. 505.43 for dispatch services provided by the regional council of governments to the township when the dispatch services are not provided in association with a public safety answering point.

### **Fiscal Officer of a Regional Council of Governments**

You ask several questions regarding the appointment of a fiscal officer of a regional council of governments. R.C. Chapter 167 requires a regional council of governments to appoint a fiscal officer but does not specify who may serve in this position. *See* R.C. 167.04(B). You first ask whether a county auditor may serve as fiscal officer for a regional council of governments.

You note in your letter that 1989 Op. Att’y Gen. No. 89-063 addressed whether a county auditor may be appointed as fiscal officer of a regional council of governments composed of community health districts established pursuant to R.C. 340.01. In this regard, the opinion states as follows:

The regional council may ... pursuant to R.C. 167.06, accept the services of personnel of its members. As I have just discussed in your previous question, R.C. 167.07 permits a public officer to hold an office of the regional council. Thus R.C. Chapter 167 neither requires nor precludes appointment of a county auditor as the county fiscal officer.

1989 Op. Att’y Gen. No. 89-063, at 2-285. We believe that this observation is accurate. R.C. 167.06 permits a regional council of governments to accept “services of personnel” and “other necessary services” from members of the regional council of governments and states that members may give “services” to the council. R.C. 167.06(A). R.C. 167.07 also provides that holding an office of the regional council of governments “does not constitute the holding of a public office or employment within the meaning of any section of the Revised Code,” shall not constitute an interest in a contract, and that an officer of the council shall not be disqualified from holding any public office or employment because of his position as an officer of the council.

1989 Op. Att’y Gen. No. 89-063 concluded that a county auditor may not serve as fiscal officer of a regional council of governments composed of community health boards established by R.C. 340.01. The opinion reasons that the county auditor is a creature of statute and may exercise only those powers that are expressly granted by statute or necessarily implied thereby. 1989 Op. Att’y



Gen. No. 89-063, at 2-286. The opinion finds no authority in R.C. Chapters 167 or 319<sup>6</sup> or in R.C. 340.10 for the county auditor to serve as the fiscal officer of a regional council of governments. *Id.*

Upon further consideration, we believe that the language of R.C. 167.06(A) is broad enough to permit a county auditor to serve as the fiscal officer of a regional council of governments. The statute permits a regional council of governments to accept “services of personnel” from its members. This necessarily implies that the members are permitted to give those services. We must then determine what is included in “services of personnel” from the members of the regional council.

In this matter, Clark County will be a member of the regional council of governments. *See* R.C. 167.02(A). R.C. 167.06 does not specify or limit which agencies or officials of the county may contribute services of personnel to the regional council of governments. We therefore believe that the contribution may come from the auditor of Clark County, as a county official. “Personnel” is defined as a body of persons employed in some service or persons of a particular group, as professional or occupation. *Webster’s Third New International Dictionary* 1687 (unabr. ed. 1993). This term is broad enough to encompass a county auditor as a member of a particular group or as an elected county official.

We previously concluded that a county auditor may not serve as a fiscal officer because a county auditor is a creature of statute and may exercise only those powers expressly delegated by statute or necessarily implied thereby. 1989 Op. Att’y Gen. No. 89-063, at 2-286. Here, however, R.C. 167.06(A) expressly permits a regional council of governments to accept “services of personnel” from a member, and necessarily implied by that language is the power of a member to contribute those services. Accordingly, we conclude that pursuant to R.C. 167.06, a county auditor may serve as the fiscal officer of a regional council of governments.<sup>7</sup> To that extent, we overrule syllabus paragraph 7 of 1989 Op. Att’y Gen. No. 89-063.

This conclusion also finds support in the purpose of R.C. Chapter 167. The provisions governing a regional council of governments are designed to permit the members to provide more than the traditional contributions of financial support. In addition to providing money, members may provide funds, services of personnel, equipment, real or personal property, or other necessary services. R.C. 167.06. Additionally, the language of R.C. 167.07 demonstrates that the General Assembly

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<sup>6</sup> 1989 Op. Att’y Gen. No. 89-063, at 2-286, refers to R.C. Chapter 317, which governs the powers of a county recorder, rather than R.C. Chapter 319, which governs the powers of a county auditor. Because the opinion addressed the authority of a county auditor, we believe this was a typographical error and that the opinion intended to refer to R.C. Chapter 319.

<sup>7</sup> Because we have concluded that the county auditor may serve as the fiscal officer of a regional council of governments, we need not address your final two questions.

recognizes that a person may serve as an officer of the regional council of governments while also serving in another public office or position.<sup>8</sup>

### **Conclusions**

Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. A board of county commissioners and a municipal corporation may establish a regional council of governments (1) to operate a public safety answering point under R.C. Chapter 128 and, (2) if the regional council of governments is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08, to operate a countywide public safety communications system pursuant to R.C. 307.63.
2. A regional council of governments that operates a public safety answering point under R.C. Chapter 128 may not receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are provided in association with the public safety answering point. A regional council of governments may, however, receive funding for the costs of establishing, equipping, furnishing, operating, or maintaining a public safety answering point operated by the regional council of governments as set forth in the formula in the county's final 9-1-1 plan adopted pursuant to R.C. 128.03 and R.C. 128.07.

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<sup>8</sup> R.C. 167.07's declaration that holding an office of a regional council of governments does not constitute a public office, shall not constitute an interest in a contract, and that an officer of the council shall not be disqualified from holding any public office by reason of his position as an officer of the council resolves the question whether a potential conflict of interest may prohibit a person from serving simultaneously as county auditor and fiscal officer of a regional council of governments. *See generally* 2009 Op. Att'y Gen. No. 2009-010, at 2-87 (describing the seven question compatibility test used to determine whether a person may serve simultaneously in two public positions). Similar language in other statutes has been considered sufficient to permit a public officeholder to serve in another public office or position, regardless of any potential conflicts of interest that may arise. *See* 2014 Op. Att'y Gen. No. 2014-039, slip op. at 7 (“[w]here the General Assembly has sanctioned overlapping roles for a public officer . . . , despite the potential for conflicts of interest, we have advised that the potential conflicts of interest do not prohibit the actors from performing their statutory duties”); 2012 Op. Att'y Gen. No. 2012-040, at 2-351 (considering R.C. 1724.10(B)(1), “the General Assembly has authorized a person to serve simultaneously as a township trustee and member of the governing board of a county land reutilization corporation even though conflicts of interest may exist between the two positions”); 2009 Op. Att'y Gen. No. 2009-010, at 2-91; 1977 Op. Att'y Gen. No. 77-034, at 2-123.

3. A regional council of governments has no authority pursuant to R.C. Chapter 128 to receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are not provided in association with a public safety answering point.
4. A regional council of governments has no authority pursuant to R.C. 307.63 to receive funding through contracts for dispatch services provided to other political subdivisions when the dispatch services are not provided in association with a public safety answering point.
5. A regional council of governments may receive funding from a contract with a municipal corporation or township within the county pursuant to R.C. 307.15 for dispatch services provided by the regional council of governments to the municipal corporation or township when the dispatch services are not provided in association with a public safety answering point, so long as the regional council of governments is authorized to act on behalf of the board of county commissioners pursuant to R.C. 167.03(C) or R.C. 167.08.
6. A regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a municipal corporation or township pursuant to R.C. 311.29 for dispatch services provided by the regional council of governments to the municipal corporation or township when the dispatch services are not provided in association with a public safety answering point.
7. A regional council of governments that is empowered to act on behalf of a county sheriff pursuant to R.C. 167.08 may receive funding from a contract with a township pursuant to R.C. 505.43 for dispatch services provided by the regional council of governments to the township when the dispatch services are not provided in association with a public safety answering point.
8. Pursuant to R.C. 167.06, a county auditor may serve as the fiscal officer of a regional council of governments. (1989 Op. Att’y Gen. No. 89-063, syllabus, paragraph 7, overruled.)

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive, flowing style.

MICHAEL DEWINE  
Ohio Attorney General