

**OPINION NO. 90-067****Syllabus:**

1. Pursuant to R.C. 307.20, 308.03(G), 308.06(K), and 717.01(X), a board of county commissioners may contract with a regional airport authority for the county to provide county employees to serve as staff for the airport.
2. If an agreement between a board of county commissioners and a regional airport authority contains a provision for financial support by the county that exceeds the portion set forth in the original resolution creating the regional airport authority, the provision may be adopted by way of an amendment to the resolution. (1971 Op. Att'y Gen. No. 71-074, syllabus, paragraph two, approved and followed.)

---

**To: William M. Owens, Coshocton County Prosecuting Attorney, Coshocton, Ohio**

**By: Anthony J. Celebrezze, Jr., Attorney General, September 7, 1990**

I have before me your request for an opinion concerning the operations of a regional airport authority. In particular, you have asked: "May a board of county commissioners, pursuant to its authority under [R.C. 307.20 and 717.01(X)], contract with a regional airport authority to provide in-kind assistance in the form of employees to operate an airport?"

Your letter of request sets forth the following facts:

The airport staff consists of two full-time and two part-time employees. Since its establishment in 1965, the airport authority has been supported solely by the board of county commissioners and the airport authority employees have been on the county payroll and covered by the county group insurance plan. The airport authority board has independently exercised its powers under Chapter 308 of the Revised Code except that it has never set up a payroll or provided insurance or other personnel benefits.

The existing statutory scheme appears to permit the arrangement you have described.

A regional airport authority may be created by a single county or by two or more contiguous counties by the adoption of a resolution by the board of county commissioners of each county to be included in the regional airport authority. R.C. 308.03. The resolution creating the authority must set forth certain information, including the "manner and to what extent the expenses of the regional airport authority shall be apportioned among the counties creating it." R.C. 308.03(G). A regional airport authority is managed by a board of trustees, *see* R.C. 308.04-.05, and is granted various powers, *see* R.C. 308.06-.09, .13-.14, including the following:

[A regional airport] authority...:

...

(K) May provide by agreement with any county, including the counties within its territorial boundaries, or any municipal corporation or any combination thereof for the acquisition, construction, maintenance, or operation of any airport or airport facility owned or to be owned and operated by it or owned or to be owned and operated by any such county or municipal corporation and *the terms on which it shall be acquired, constructed, maintained, or operated, and the amount of the cost and expense thereof to be paid by each such county or municipal corporation...* (Emphasis added.)

R.C. 308.06(K); *see* 1977 Op. Att'y Gen. No. 77-084 at 2-285 ("[u]nder [R.C. 308.06(K)]...the airport authority may in essence contract with a county to...operate its facility"); *see also* R.C. 308.06(A) (general authority to contract); R.C. 308.14 (authority to contract "for the exercise of the powers granted by [R.C. 308.01-.17]").

A board of county commissioners is given authority with respect to airports pursuant to R.C. 307.20, which states, in part: "The board of county commissioners, in addition to its other powers, shall have the same authority, subject to the same limitations, with respect to airports, landing fields, and other air navigation facilities as is conferred upon municipal corporations by sections 717.01 and 719.01 of the Revised Code..." R.C. 719.01 defines powers of eminent domain. R.C. 717.01 sets forth a variety of powers, including the following:

Each municipal corporation may:

...

(X) *Provide by agreement with any regional airport authority, created under section 308.03 of the Revised Code, for the acquisition, construction, maintenance, or operation of any airport or airport facility owned or to be owned and operated by such regional airport authority or owned or to be owned and operated by such municipal corporation and pay the portion of the expense thereof as set forth in such agreement....*

Pursuant to R.C. 307.20, this power is conferred upon a board of county commissioners.

Your question relates to the provision of staff for a regional airport authority. You have informed one of my assistants that, in the situation with which you are concerned, the regional airport authority was created by a single county, *see* R.C. 308.03, and has been financed by that county. Part of the arrangement has been that the airport is staffed by persons who are placed on the county payroll and covered by the county group insurance plan. You are asking whether this arrangement is permissible under existing law.

R.C. 307.20, 308.03(G), 308.06(K), and 717.01(X) give a county and a regional airport authority broad discretion to determine how airports and airport facilities are to be operated and funded. Pursuant to R.C. 308.06(K), a regional airport authority may provide by agreement with a county the terms on which any airport or airport facility shall be operated, whether by the county or by the regional airport authority, and the amount of the cost and expense to be paid by the county. *See also* R.C. 307.20, 308.03(G), 717.01(X). The authority of the county and the

regional airport authority to agree upon such matters permits them to make such arrangements as they deem appropriate with respect to the operation of the airport and the allocation of costs. See Op. No. 77-084; 1970 Op. Att'y Gen. No. 70-064; 1966 Op. Att'y Gen. No. 66-056. It appears, therefore, that a county and a regional airport authority are not precluded from agreeing that an airport is to be operated on terms that include the provision by the county of staff for the airport, where such staff consists of persons who are county employees.

I am aware that R.C. 308.06(M) authorizes a regional airport authority to "employ and fix the compensation of consulting engineers, superintendents, managers, and such other engineering, construction, and accounting experts, attorneys, and other employees and agents necessary for the accomplishment of its purposes," and that R.C. 308.15 provides that all officers and employees of a regional airport authority shall be considered as public employees for purposes of R.C. Chapter 145, which governs the Public Employees Retirement System. See also R.C. 308.05 (the board of trustees of a regional airport authority "shall, within the limitations of [R.C. 308.01-.17], by its rules and regulations provide the procedure for its actions, the manner of selection of its [officers] and employees, their titles, terms of office, compensation, duties, number, and qualifications, and any other lawful subject necessary to the operation of the regional airport authority and the exercise of the powers granted to it"); 1965 Op. Att'y Gen. No. 65-47 (employees of a regional airport authority are not state or county employees for purposes of civil service provisions). I do not, however, find that such provisions preclude a regional airport authority from agreeing to obtain airport staff from other sources pursuant to its authority to contract. On this point, R.C. 308.16 states expressly: "Nothing in sections 308.01 to 308.17, inclusive, of the Revised Code, shall limit the exercise of the power or authority granted to counties or municipal corporations by sections 307.20, 717.01, and 719.01 of the Revised Code." A county is authorized to agree with a regional airport authority upon terms for the operation of an airport. R.C. 308.06(K); see also R.C. 307.20; R.C. 717.01. The fact that the authority may hire employees to carry out its purposes does not prevent the county and the authority from agreeing upon a different arrangement for the staffing of the airport.

I note that a question similar to yours was addressed in 1971 Op. Att'y Gen. No. 71-074. That opinion considered whether the Greene County Regional Airport Authority could contract with Greene County for snow removal and grass cutting by the Greene County Engineer or, alternatively, whether the county could appropriate money directly to the regional airport authority to cover the cost of a contract with the county for snow removal and the cutting of grass. Op. No. 71-074 did not address the two alternatives separately, but rather concluded generally:

1. Sections 308.03 and 308.17, Revised Code, provide that a board of county commissioners may enter into a contract with a regional airport authority under which the county will assume the costs of maintenance of the airport.

2. If such a provision did not appear in the original resolution of the board of county commissioners creating the regional airport authority, it can be adopted by way of an amendment to the resolution.

The second paragraph of the syllabus of Op. No. 71-074 was based upon Op. No. 66-056, which states, in part:

[I]t is apparent that in the resolution creating the regional airport authority, the board of county commissioners has provided for the extent to which it will bear the expense of the regional airport authority. It follows that any subsequent agreement between the county and the regional airport authority under Section 308.06(K)... involving additional expenses, must result in a modification or amendment of the original resolution.

Op. No. 66-056 at 2-92 to 2-93.

R.C. 308.17 contains the following provision with respect to the appropriation of moneys by a county to a regional airport authority:

The board of county commissioners of any county included within a regional airport authority may appropriate annually, from moneys to the credit of the general fund of the county and not otherwise appropriated, that portion of the expense of the regional airport authority to be paid by such county as provided in the resolution creating the regional airport authority adopted under [R.C. 308.03], or by any amendment thereto.

R.C. 308.03 authorizes the amendment of an agreement creating a regional airport authority, as follows: "The resolution creating a regional airport authority may be amended to include additional counties or for any other purpose, by the adoption of such amendment by the board of county commissioners of each county included or to be included in the regional airport authority." Thus, if a county agrees to provide a regional airport authority with financial support in excess of the portion set forth in the resolution creating the authority, such agreement may be adopted as an amendment to the resolution.

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

1. Pursuant to R.C. 307.20, 308.03(G), 308.06(K), and 717.01(X), a board of county commissioners may contract with a regional airport authority for the county to provide county employees to serve as staff for the airport.
2. If an agreement between a board of county commissioners and a regional airport authority contains a provision for financial support by the county that exceeds the portion set forth in the original resolution creating the regional airport authority, the provision may be adopted by way of an amendment to the resolution. (1971 Op. Att'y Gen. No. 71-074, syllabus, paragraph two, approved and followed.)