

OPINION NO. 89-059**Syllabus:**

Pursuant to R.C. 505.50, a board of township trustees of a township, which has formed a township police district, may contract with a village whereby the township police district provides full police protection to the village.

To: James A. Philomena, Mahoning County Prosecuting Attorney, Youngstown, Ohio

By: Anthony J. Celebrezze, Jr., Attorney General, July 26, 1989

I have before me your opinion request in which you ask whether a township, which has formed a township police district, may contract with a village to provide full police protection to the village. As stated in your letter:

Although there are a number of statutory provisions regarding police protection for townships and municipal corporations, none of those provisions directly deal with the above issue. For instance, Ohio Revised Code Sections 505.431 and 737.041 permit townships and municipal corporations to provide police protection services to one another "without a contract," but are silent with regard to contracts for such services. In addition, Ohio Revised Code Sections 7[3]7.04 and

311.29 authorize municipal corporations to contract with other municipal corporations and with the county sheriff, respectively, for police protection, but are silent with regard to the authority of municipal corporations to enter into such contracts with townships.

You then ask whether either R.C. 505.43 or R.C. 505.50 provides the requisite authority for a township, which has formed a township police district, to contract with a village in order to provide full police protection to the village.

Township police districts are created pursuant to R.C. 505.48(A), which states in pertinent part: "The board of township trustees of any township may, by resolution adopted by two-thirds of the members of the board, create a township police district comprised of all or a portion of the unincorporated territory of the township as the resolution may specify." The role of the township trustees in the operation of the police district is set forth in R.C. 505.49 as follows:

(A) The township trustees by a two-thirds vote of the board may adopt rules necessary for the operation of the township police district, including a determination of the qualifications of the chief of police, patrolmen, and others to serve as members of the district police force.

The township trustees by a two-thirds vote of the board shall appoint a chief of police for the district, determine the number of patrolmen and other personnel required by the district, and establish salary schedules and other conditions of employment for the employees of the township police district. The chief of police of the district shall serve at the pleasure of the township trustees and shall appoint patrolmen and such other personnel as the district may require, subject to rules and limits as to qualification, salary ranges, and numbers of personnel established by the township board of trustees. The township trustees may include in the township police district and under the direction and control of the chief of police, any constable appointed pursuant to [R.C. 509.01], or designate the chief of police or any patrolman appointed by him as a constable, as provided for in [R.C. 509.01], for the township police district.

....
(B) Division (A) of this section does not apply to any township having a population of ten thousand or more persons residing within the township and outside of any municipal corporation, which has its own police department employing ten or more full-time paid employees, and which has a civil service commission established under [R.C. 124.40(B)]. Such township shall comply with the procedures for the employment, promotion, and discharge of police personnel provided by [R.C. Chapter 124], except that the board of township trustees of the township may appoint the chief of police, and any person so appointed shall be in the unclassified service under [R.C. 124.11] and shall serve at the pleasure of the board....The board of township trustees shall determine the number of personnel required and establish salary schedules and conditions of employment not in conflict with [R.C. Chapter 124]....This division does not apply to police constables appointed pursuant to [R.C. 509.01].

Further provisions in R.C. Chapter 505 empower the board of township trustees to exercise various powers with respect to the filing and investigation of charges against police personnel. R.C. 505.491-495. In addition, R.C. 505.51 expressly authorizes the board of township trustees to levy a tax "upon all of the taxable property in the township police district pursuant to [R.C. 5705.19 and 5705.25] to defray all or a portion of expenses of the district in providing police protection."

With this general statutory scheme in mind, I will first address your question as to whether R.C. 505.43 authorizes a township, which has formed a township police district, to contract with a village within the township and thereby provide police protection to the village. R.C. 505.43 states in part:

In order to *obtain* police protection, or to *obtain* additional police protection in times of emergency, any township may enter into a contract with one or more townships, municipal corporations, or county

sheriffs upon such terms as are agreed to by them, for services of police departments or use of police equipment, or the interchange of the service of police departments or use of police equipment within the several territories of the contracting subdivisions, if the contract is first authorized by respective boards of township trustees or other legislative bodies. (Emphasis added.)

In the past, the provisions of R.C. 505.43 have been viewed as an alternative to the formation of a police district for the provision of police protection to a township. See, e.g., 1976 Op. Att'y Gen. No. 76-027. Whether a township, which has formed a police district, may enter into a contract pursuant to R.C. 505.43, however, is a matter which I need not decide in answering your question, since the statute is clearly limited to the situation where a township seeks to obtain some form of police protection, rather than where a township seeks only to provide police protection, as in the situation about which you ask. See generally *Stingluff v. Weaver*, 66 Ohio St. 621, 64 N.E. 574 (1902) (syllabus, paragraphs one and two) ("[t]he object of judicial investigation in the construction of a statute is to ascertain and give effect to the intent of the law-making body which enacted it....[T]he intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation"). Based upon the plain language of R.C. 505.43, I must conclude that R.C. 505.43 does not authorize a township, which has formed a police district, to contract with a village for the purpose of providing full police protection to the village.

As mentioned in your opinion request, R.C. 505.431 allows for the provision of police services by a township police district to a village, as follows:

The police department of any township or township police district may provide police protection to any county, municipal corporation, or township of this state or to a governmental entity of an adjoining state without a contract to provide police protection, upon the approval, by resolution, of the board of township trustees of the township in which the department is located and upon authorization by an officer or employee of the police department providing the police protection who is designated by title of office or position, pursuant to the resolution of the board of township trustees, to give such authorization. (Emphasis added.)

In authorizing a township police district to provide police protection to a municipal corporation, the legislature has expressly stated that such protection may be provided "without a contract to provide police protection" and is silent as to a police department's authority to provide such protection pursuant to contract. It is a fundamental rule of statutory construction that, in interpreting an ambiguous statutory provision, it is necessary "to give effect to the words used, not to delete words used or to insert words not used." *Columbus-Suburban Coach Lines, Inc. v. Public Utilities Commission*, 20 Ohio St. 2d 125, 127, 254 N.E.2d 8, 9 (1969). Had the legislature intended to authorize a police department of a township police district to provide police protection pursuant to contract, it could easily have so stated, having expressly provided the authority to contract in other instances, see, e.g., R.C. 505.43; R.C. 505.50. I must conclude, therefore, that the legislature did not intend that the authority of the police department of a township police district to provide police protection to a village under R.C. 505.431 encompass those situations where such protection would be provided pursuant to a contract.

The final statute about which you ask, R.C. 505.50, states in pertinent part:

The board of trustees of any township may enter into a contract with one or more townships, a municipal corporation, or the county sheriff upon such terms as are mutually agreed upon for the provision of police protection services or additional police protection in times of emergency. Such contract shall be agreed to in each instance by the respective board or boards of township trustees, the county commissioners, or the legislative authority of the municipal

corporation involved. Such contract may provide for a fixed annual charge to be paid at the time agreed upon in the contract. (Emphasis added.)

Pursuant to R.C. 505.50, the board of township trustees of any township may contract with, among others, a village "for the provision of police protection services or additional police protection services." The purpose for which a board of township trustees may contract with a municipality, including a village, *see generally* Ohio Const. art. XVIII, §1 (stating in part: "Municipal corporations are hereby classified into cities and villages"), is stated rather unclearly as being "for the provision of" various types of police protection services. The question arises as to whether the language of R.C. 505.50 encompasses situations where a township seeks to provide police protection services to a village, as in the situation about which you ask.

Although the operation of R.C. 505.50 has been addressed by my predecessors in circumstances where a township has sought to obtain, rather than to provide, police protection services, *see, e.g.*, Op. No. 76-027; 1971 Op. Att'y Gen. No. 71-045, the language of R.C. 505.50 appears also to encompass situations where a township seeks to provide such services. At the time the General Assembly enacted R.C. 505.50 in 1963 Ohio Laws 212, 1814 (Am. H.B. 744, eff. Sept. 24, 1963), R.C. 505.441 (currently at R.C. 505.43)¹ authorized townships specifically to obtain police protection or additional police protection pursuant to contract. R.C. 505.50 was then enacted authorizing the board of trustees of any township to contract with certain public entities "for the provision of" certain types of police protection services, without specifying whether the township was thereby to obtain or to provide such services. Since, pursuant to R.C. 505.441 (now R.C. 505.43), townships were already empowered to obtain police protection services or additional police protection services by contract from a township, municipality, or county sheriff, the authority for a township to contract with those entities under R.C. 505.50 "for the provision of" such services must be read as including the authority to provide such services to the other contracting entity; otherwise, that portion of R.C. 505.50 would have no purpose. *See generally United Sales Promotion Co. v. Anderson*, 100 Ohio St. 58, 125 N.E. 106 (1919). After the enactment of R.C. 505.43, the General Assembly enacted R.C. 505.431 in 1979-1980 Ohio Laws, Part I, 328 (Am. S.B. 98, eff. Oct. 6, 1980), expressly authorizing township police departments to "provide" police protection to various other governmental entities, but specifically "without a contract." It is a fundamental rule of statutory construction that, in interpreting a statute, it is necessary "to give effect to all its terms and provisions; and to render it compatible with other and related enactments whenever and wherever possible." *Commonwealth Loan Co. v. Downtown Lincoln Mercury Co.*, 4 Ohio App. 2d 4, 6, 211 N.E.2d 57, 59 (Hamilton County 1964). A reading of R.C. 505.50 which authorizes a township to contract to provide police protection services to one of the designated entities, thus, appears to comport with the statutory scheme set forth in R.C. Chapter 505 governing townships and police protection services.

¹ R.C. 505.441 stated in pertinent part:

In order to obtain police protection, or to obtain additional police protection in times of emergency, any township may enter into a contract with one or more townships, municipal corporations, or county sheriffs upon such terms as are agreed to by them, for services of police departments or use of police equipment, or the interchange of the service of police departments or use of police equipment within the several territories of the contracting subdivisions, if such contract is first authorized by respective boards of township trustees or other legislative bodies.

1961 Ohio Laws 582, 632 (Am. H.B. 1, eff. Jan. 10, 1961).

Part of your question is whether the township may provide full police protection to the village. In *State ex rel. OCSEA v. City of Coshocton*, 5 Ohio App. 3d 5, 488 N.E.2d 834 (Coshocton County 1982), the court found that, since R.C. 737.04 empowered a municipality "to obtain police protection or to obtain additional police protection" pursuant to contract with other municipalities, a municipality could so obtain all or additional police protection. Similarly, since R.C. 505.50 empowers a township to contract "for the provision of police protection services or additional police protection services either on a regular basis or for additional protection in times of emergency," it appears that a township may provide full police protection under that statute. I must conclude, therefore, that R.C. 505.50 empowers the board of trustees of a township, which has formed a township police district, to contract with a village to provide the village "police protection services or additional police protection services either on a regular basis or for additional protection in times of emergency," where the board of township trustees and the legislative authority of the village so agree. Further, "[s]uch contract may provide for a fixed annual charge to be paid at the time agreed upon in the contract." R.C. 505.50.

In answer to your specific question, it is my opinion, and you are hereby advised that, pursuant to R.C. 505.50, a board of township trustees of a township, which has formed a township police district, may contract with a village whereby the township police district provides full police protection to the village.