

**OPINION NO. 77-084**

**Syllabus:**

Pursuant to R.C. 308.17, a board of county commissioners is authorized to make appropriations from the county general fund to a regional airport authority for the purpose of making capital improvements to the airport facility, provided that the resolution under which the authority was created is

amended accordingly. (1966 Op. Att'y Gen. No. 66-056, approved and followed.)

**To: Michael E. Bernard, Hardin County Pros. Atty., Kenton, Ohio**  
**By: William J. Brown, Attorney General, December 1, 1977**

I have before me your request for an opinion regarding funding procedures for county airport authorities. Specifically, you have asked the following question:

Is our county's airport authority pushed into one funding vehicle or another for "capital improvements?" Specifically, the airport authority would like to receive funds for capital improvements from the county general fund under R.C. 308.17. However, is the authority required to proceed under R.C. 308.08 for capital improvements since that section empowers the issuance of bonds to "extend and enlarge" where R.C. 308.17 limits appropriations to the "expense" of the authority?

Before addressing your question, a review of the various funding provisions in R.C. Chapter 308 is in order. R.C. 308.06 lists the powers vested in the board of trustees of a regional airport authority. Division (K) of that section reads, in pertinent part, as follows:

Upon the creation of a regional airport authority as provided by section 308.08 of the Revised Code, . . . said regional airport authority:

. . . .

(K) May provide by agreement with any county, including the counties within its territorial boundaries, . . . for the acquisition, construction, maintenance, or operation of any airport facility owned and operated by it, . . . and the terms by 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 . . .

Under this section, then, the airport authority may in essence contract with a county to acquire, construct, maintain, or operate its facility. Naturally, the amount of that cost which is to be borne by the county is determined by the agreement. A second revenue device available to the authority is the issuance of its own revenue bonds under R.C. 308.08. Under that section, bonds may be issued to "construct, replace, extend, enlarge, maintain, or operate any . . . airport facility." The final revenue device available to the airport authority is found in R.C. 308.17. That section allows the county to appropriate monies to the authority from its general fund. It provides, in pertinent part, as follows:

The board of county commissioners of any county . . . may appropriate annually, from . . . the general fund of the county . . . , that portion of the expense of the regional airport authority to be paid by such county as provided on the resolution creating the . . . authority . . . , or by any amendment thereto. (Emphasis added)

The problem you present, therefore, is whether the word "expense" in R.C. 308.17 prevents the county from appropriating general fund monies to the airport authority in order to provide funds for capital improvements.

In 1966 Op. Att'y Gen. No. 66-056, my predecessor had occasion to address a similar question. That opinion concluded that although issuance of its own revenue bonds was one method by which the airport authority could fund capital improvements, it was not the only option available. In that opinion, the alternative method considered was the "agreement" device set forth in R.C. 308.06 (K), supra. Significantly, that section allows the county to fund its share of the agreement by either appropriations from the general fund, or by issuing its own bonds. In pertinent part, it provides as follows:

any such county . . . may issue bonds in accordance with sections 133.01 to 133.65, inclusive, of the Revised Code for the purpose of paying all or part of the cost assumed by it for the acquisition or construction of an airport . . . pursuant to such agreement . . .  
(Emphasis added)

Since the only monies available to the county which could possibly be used for this purpose are monies raised by bonds or monies in the general fund, and since R.C. 308.06 (K), supra allows the county to issue bonds to cover "all or part" of the cost of its share of the "agreement", it is clear that general fund monies may be appropriated for capital improvements under that section. Thus, in Op. No. 66-056, supra, the following observation was made:

It would seem, therefore, that in any agreement made between the board of county commissioners and the board of trustees of the regional airport authority pursuant to section 308.06 (K) . . . where the cost of acquisition of land and facilities for the operation of an airport is to be provided for as an expense of the regional airport authority, [R.C. 308.17] is controlling. Such expense, as agreed upon by the board of county commissioners, must be appropriated annually from monies . . . of the general fund of the county.

Since the county may supply funds for its share of an agreement under R.C. 308.06 (K) from the general fund, and since the authority could use such funds to make capital improvements, it would be anomalous to conclude that the annual appropriation made by the county under R.C. 308.17 is restricted only to non-capital expenditures. This construction is further supported by the fact that when underwriting its own capital improvements, the county is not limited to bond issues, but instead may draw upon its general fund. 1954 Op. Att'y Gen No. 3876.

I conclude, therefore, that the word "expense" as used in R.C. 308.17 does not prevent the county from making general fund appropriations to the airport authority even though the appropriations will be used for capital improvements. Nonetheless, the procedure for an annual appropriation from the county general fund to the airport authority, as established by R.C. 308.17, requires that appropriations may be made only in accordance with " . . . the resolution creating the authority, or any amendment thereto." Therefore, prior to such an appropriation, the resolution creating the authority should be examined, and if necessary, it should be amended.

Accordingly, it is my opinion, and you are so advised that:

Pursuant to R.C. 308.17, a board of county commissioners is authorized to make appropriations from the county general fund to a regional airport authority for the purpose of making capital improvements to the airport facility, provided that the resolution under which the authority was created is amended accordingly. (1966 Op. Att'y Gen. No. 66-056, approved and followed.)