

**OPINION 65-47****Syllabus:**

The employees of a regional airport authority created under Chapter 308, Revised Code, are neither State employees nor county employees within the meaning of Chapter 143, Revised Code, and are exempt from regulation under Chapters 143 and 305, Revised Code. Such employees are subject to the rules and regulations of the board of trustees of a regional airport authority as provided for in Chapter 308, Revised Code.

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**To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio**  
**By: William B. Saxbe, Attorney General, March 31, 1965**

Your request for my opinion reads as follows:

"The Akron-Canton Regional Airport authority has been recently constituted pursuant to Chapter 308 Revised Code by the Board of County Commissioners of Summit and Stark Counties. We understand that there are other airport authorities contemplated and that one may be in the operating Portsmouth area and, therefore, this problem may have interest now and in the future to others throughout the State.

"Question: Are employees of an airport authority created under Chapter 308 State employees pursuant to requirements of Chapter 143 or are they county employees under Sections 305.16 and 305.17, or are they exempt from regulation under both Chapter 143 and Chapter 305 and subject to proper rules and regulations adopted by the authority?"

Chapter 308, Revised Code, provides for the manner in which a regional airport authority may be created, and sets forth the duties, rules, regulations and powers of a regional

airport authority when it has been created. Section 308.15, Revised Code, provides that all officers and employees of a regional airport authority shall be considered public employees within the meaning of section 145.01 of the Revised Code, and a regional airport authority, its officers and employees shall be subject to the provisions of sections 145.01 to 145.57, inclusive, of the Revised Code. The Legislature thus removed any doubt as to membership of these employees in the Public Employees Retirement System. There is no comparable reference to Chapter 143 of the Revised Code providing a statutory vehicle to bring these employees under the civil service of the state. However, in order to answer your inquiry, further consideration must be given other provisions of law.

In a somewhat analogous situation the Legislature provided for regional water and sewer districts. Section 6119.39, Revised Code, included all employees of a regional water and sewer district within the Public Employees Retirement System. Furthermore, Section 6119.37, Revised Code, specifically designated the civil service commission of the state as the civil service commission for any regional water and sewer district. Thus, it becomes clear that in instances when the Legislature intends that employees of an entity, whose creation it has authorized, should be subject to civil service, it specifically will provide therefor. The absence of such provision in Chapter 308, Revised Code, would serve to indicate the intention of the Legislature that employees of a regional airport authority not be subject to the civil service of the state. Expressio unius est exclusio alterius, the

mention of one thing implies the exclusion of another thing.

Section 143.01 (A), Revised Code, reads as follows:

"'Civil Service' includes all offices and positions of trust or employment in the service of the state and the counties, cities, city health districts and city school districts thereof."

Opinion No. 3073, Opinions of the Attorney General for 1962 at page 488, 489, reads as follows:

"As to what constitutes the civil service of the state, Section 143.08, Revised Code, reads, in part, as follows:

"The civil service of the state and the several counties, cities, city health districts, and city school districts thereof shall be divided into the unclassified service and the classified service.

"\* \* \* \* \*"

"Referring to the former General Code provision which was the predecessor of Section 143.08, supra, it is stated in 9 Ohio Jurisprudence 2d, Section 42, starting on page 353:

"As previously stated a general code provision provides that the term 'civil service' shall include 'all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts thereof.' In addition, the statute providing for municipal commissions, includes within their jurisdiction city health departments or districts. It follows, of course, that offices and positions which are not in the service of the state or of one of the political subdivisions named are not included. Hence the civil service law of Ohio does not apply to offices, positions, and employments in villages or village school districts; nor does it apply to the officers and employees of certain districts, such as the Cleveland metropolitan park district, and a county library district." (Emphasis added)

I feel that it is logical to conclude that the Legislature, by its exclusion from Chapter 308 of the Revised Code of any reference connecting the employees of a regional airport authority with the civil service provisions

of Chapter 143, Revised Code, intended that these employees should not fall within the definition of "trust or employment in the service of the state and the counties, \* \* \*," As provided in Section 143.01, supra.

Section 308.05, Revised Code, provides that:

"All the power and authority granted to a regional airport authority shall be vested in and exercised by its board of trustees which shall manage and conduct its affairs.

"The board shall, within the limitations of sections 308.01 to 308.17, inclusive of the Revised Code, by its rules and regulations provide the procedure for its actions, the manner of selection of its president, vice president, secretary, treasurer, and other 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."

I am therefore of the opinion that the employees of a regional airport authority created under Chapter 308, Revised Code, are neither State employees nor county employees within the meaning of Chapter 143, Revised Code, and are exempt from regulation under Chapters 143 and 305, Revised Code. I am further of the opinion that such employees are subject to those rules and regulations of the board of trustees of a regional airport authority as may be within the scope of those powers and authority granted to a regional airport authority by Chapter 308, Revised Code.