

1605.

ASSESSMENTS—COUNTY SEWERS—ONLY LIMITATION OF POWER OF SUCH ASSESSMENTS IS THAT PROVIDED IN SECTION 6602-8 G. C.—IN ACCORDANCE WITH SPECIAL BENEFITS CONFERRED.

The only limitation of the power of assessment for county sewers, under section 6602-1 et seq., is that under section 6602-8 G. C., such assessment must be in accordance with the special benefits conferred.

COLUMBUS, OHIO, October 4, 1920.

The State Department of Health, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your recent request for the opinion of this department as follows:

“Section 6602-1 et seq. G. C. gives county commissioners the power to establish sewer districts outside of municipalities and to provide therefor sewerage and water supply improvements. Several of the counties of the state have taken advantage of this law, particularly Lucas county, where extensive improvements have been installed.

Recently the board of county commissioners of Erie county have considered the establishment of sewerage improvements for Ruggles Beach and Mitiwanga in that county and after investigation of the existing conditions, this department has ordered the commissioners to proceed with such improvements. Plans have been prepared and estimates of cost made, and the question has been raised that the assessments on the properties within the district to provide for financing the improvements will exceed the limit of assessments permitted by law.

Section 3819 of the General Code fixes a limit of assessment upon property located within a municipal corporation, but I do not find in the statutes any limitation upon the amount that can be assessed for public improvements upon property located outside a municipal corporation.

As the improvement to be made in the Ruggles Beach-Mitiwanga sanitary district is to be done under an order of the state department of health I shall be glad to have your opinion as to whether there is a limitation upon the amount that can be assessed for this improvement against the property located within the district where such improvements are made under the authority of and in accordance with sections 6602-1 et seq. of the General Code.”

Sections 6602-1 et seq. G. C., as enacted in 103 O. L., 734, and amended in 107 O. L., 448, are pertinent to your inquiry. In portions unrelated to your inquiry this act was also amended in 108 O. L., 368.

However, section 6602-8, as it appears in 107 O. L., 445, shows the policy of the state as to the assessments for this kind of work, and this section provides for the assessments to be made “in accordance with the special benefits conferred, less such part of said cost as shall be paid by the county at large.” This section contains no such limitations as 3819 G. C., referring to municipalities and limiting the assessment to two-thirds of the value of the property. No other section has been found imposing any such arbitrary limitation, and you are therefore advised that the limitation to the extent of assessment under this act is that fixed in the section above quoted.

Respectfully,
JOHN G. PRICE,
Attorney-General.