

## OPINION NO. 71-003

**Syllabus:**

1. A merger of the Dayton City Health District and the Montgomery County General Health District which complies with the provisions of Section 3709.07, Revised Code, results in the creation of a general health district.

2. The provisions of Chapter 143, Revised Code, with respect to state civil service, are applicable to the probationary period of employment and the appeal procedure for general health districts.

---

To: Lee C. Falke, Montgomery County Pros. Atty., Dayton, Ohio  
By: Paul W. Brown, Attorney General, January 6, 1971

You have requested my opinion with respect to the following questions under the provisions of Chapters 3709 and 143 of the Revised Code:

"1. Does the merger of the Montgomery County General Health District and the Dayton City Health District constitute a general health district within the meaning of Section 3709.07 O.R.C. for purposes of applying Chapter 143 O.R.C.?"

"2. If Chapter 143 O.R.C. applies in general, do the sections contained therein concerning probationary periods apply in particular?"

"3. If Chapter 143 O.R.C. applies in general, do the sections contained therein concerning appeals procedure apply in particular?"

Section 3709.07, Revised Code, states that:

"\* \* \*When the majority of the district advisory council and the legislative authority have voted affirmatively, the chairman of the council and the chief executive of the city shall enter into a contract for the administration of health affairs in the combined district. Such contract shall state the proportion of the expenses of the board of health or health department of the combined district to be paid by the city and by that part of the district lying outside of the city. The contract may provide that the administration of the combined district shall be taken over by either the board of health or health department of the city or

by the board of health of the general health district. Such contract shall prescribe the date on which such change of administration shall be made. A copy of such contract shall be filed with the director of health.

"The combined district shall constitute a general health district, and the board of health or health department of the city or the board of health of the original general health district, as may be agreed in the contract, shall have, within the combined district, all the powers granted to, and perform all the duties required of, the board of health of a general health district."

The examination of the merger contract you have sent me concerning the merging of the Dayton City Health District into the Montgomery County General Health District, has shown that the resulting health district will be a general health district as spelled out under the provisions of Section 3709.07, supra.

To determine if Chapter 143, supra, applies to the resulting health district, I look to Chapter 143, supra. In Section 143.01, Revised Code, there appears the following definitions:

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

"(B) 'State service' includes all such offices and positions in the service of the state, the counties, and general health districts thereof, except the cities, city health districts and city school districts.

"(C) 'Classified service' signifies the competitive classified civil service of the state, the several counties, cities, city health districts, general health districts, and city school districts, and city school districts thereof."

It is apparent that the general health district will be under state civil service as defined in Section 143.01 (B), Revised Code. It follows that the various sections of Chapter 143, Revised Code, concerning state civil service, are applicable to the general health district unless a particular section may otherwise indicate.

With respect to Section 143.20, Revised Code, which deals with probationary periods of employment, and Sections 143.27

and 143.012, Revised Code, which outline the appeal procedures, I find no exceptions for general health districts concerning these matters.

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

1. A merger of the Dayton City Health District and the Montgomery County General Health District which complies with the provisions of Section 3709.07, Revised Code, results in the creation of a general health district.
2. The provisions of Chapter 143, Revised Code, with respect to state civil service, are applicable to the probationary period of employment and the appeal procedure for general health districts.