

Note from the Attorney General's Office:

1968 Op. Att'y Gen. No. 68-168 was disapproved by
1973 Op. Att'y Gen. No. 73-126.

OPINION NO. 68-168**Syllabus:**

The Assistant Director of Natural Resources may not substitute for the Director of Natural Resources as a member of the Ohio Water Development Authority.

To: Larry H. Snyder, Chairman, Ohio Water Development Authority, Columbus, Ohio

By: William B. Saxbe, Attorney General, December 13, 1968

I have before me your request of November 21, 1968, for my opinion wherein you ask whether the Assistant Director of Natural Resources may substitute for the Director of Natural Resources from time to time in the exercise of the functions of the office of member of the Ohio Water Development Authority.

Section 6121.02, Revised Code, provides in pertinent part:

"The authority shall consist of seven members as follows: five members appointed by the governor, with the advice and consent of the senate, no more than three of whom shall be members of the same political party, and the director of natural resources and the director of health who shall be members ex officio without compensation. * * *"

The question presented requires interpretation of Section 1501.051, Revised Code, which provides in pertinent part as follows:

"The assistant director or a deputy director may, at the request of the director, serve in his place as member of any board, committee or commission of which the director is, by law, a member."

It is clear that if the name of the Ohio Water Development

Authority was instead Ohio Water Development Board, Committee or Commission, the Assistant Director of Natural Resources could serve in the place of the Director as a member of that body. However, the Legislature chose to designate the body created by Chapter 6121, Revised Code, an authority.

I note that the above quoted part of Section 1501.051, supra, enacted by the 107th General Assembly was effective December 14, 1967. At that time there was in existence other legislatively created or authorized bodies designated "authorities." For example, see Chapter 4582, Revised Code, which authorizes port authorities and Chapter 152, Revised Code, which created the Ohio Building Authority. The Ohio Legislature must be presumed to have had a purpose in excluding the designation "authority" from the enumeration of bodies in Section 1501.051, supra, on which the Assistant Director of Natural Resources may serve, as a member, in the place of the Director of Natural Resources. Knowing that government bodies had been designated "authorities" in addition to having been designated "boards," "committees" or "commissions" and excluding "authorities" from those bodies on which the Assistant Director of Natural Resources may serve in the place of the Director of Natural Resources, I conclude that the Legislature did not intend to authorize this substitution on "authorities." The application of the maxim of statutory construction, expressio unius est exclusio alterius, requires that when certain things are specified in a law an intention to exclude all others may be inferred.

I am enforced in this conclusion by the choice of the 107th General Assembly of the designation "authority" for the body created by Chapter 6121, Revised Code. That Chapter which created the Ohio Water Development Authority was effective March 7, 1968, which time was subsequent to the effective date of the provisions of Section 1501.051, supra. With knowledge of the provisions of Section 1501.051, supra, which it had just enacted the 107th General Assembly chose to designate your body an "authority" and not a "board," "committee" or "commission." Had the General Assembly intended the provisions of Section 1501.051, supra, to apply it could have designated the body created by Chapter 6121, Revised Code, a board, committee or commission or it could have amended Section 1501.051, supra, to include "authority."

Accordingly, it is my opinion and you are hereby advised that the Assistant Director of Natural Resources may not substitute for the Director of Natural Resources as a member of the Ohio Water Development Authority.