

2566

BOARD OF COUNTY COMMISSIONERS MAINTAINING A SEWER DISTRICT MUST COLLECT RENTS AND CHARGES FOR THE DISTRICT OR DELEGATE SAID RESPONSIBILITY TO THE SANITARY ENGINEERING DEPARTMENT—§6117.01, R.C.

## SYLLABUS:

When, pursuant to Section 6117.01 *et seq.*, Revised Code, a board of county commissioners lays out, establishes and maintains a sewer district in the county, the board has the duty to bill and collect the rents and charges of the district; and the board may perform this duty itself, or delegate said duty to the sanitary engineering department authorized by said Section 6117.01.

Columbus, Ohio, October 12, 1961

Hon. James A. Rhodes, Auditor of State  
State House, Columbus, Ohio

Dear Sir:

Your request for my opinion asks the following question:

“Upon which office, the county treasurer or board of county commissioners or the sanitary engineer it appoints, does the duty to bill and collect rents and charges of a sewer district fall, where such district was established by authority of Chapter 6117, Revised Code?”

Under Section 6117.01, Revised Code, a board of county commissioners may lay out, establish and maintain one or more sewer districts within

the county, outside of municipal corporations. The section further provides that the board:

“\* \* \* may create and maintain a sanitary engineering department to be under its supervision and in charge of a competent sanitary engineer, to be appointed by such board, for the purpose of aiding it in the performance of its duties under sections 6117.01 to 6117.45, inclusive, of the Revised Code, \* \* \*.”  
Section 6117.02, Revised Code, reads in part:

“The board of county commissioners shall fix reasonable rates to be charged for the use of the sewers or sewerage treatment or disposal works referred to in section 6117.01 of the Revised Code by every person, firm or corporation whose premises are served by a connection to such sewers or sewerage treatment or disposal works when such sewers or sewerage treatment or disposal works are owned or operated by the county, and may change such rates as it deems advisable. \* \* \* All moneys collected as rents for use of such sewers or sewerage treatment or disposal works or as tap in charges in any sewer district shall be paid to the county treasurer and kept in a separate and distinct fund to the credit of such district. \* \* \*”

Thus, where a sewer district is created in a county, the board of county commissioners sets the rates to be charged for the use of the sewers and treatment or disposal works of the district. There is no specific language as to what officer or agency has the duty to bill and collect rents and charges set by the board; however, since the board is given the authority to lay out, establish *and maintain* the district, it logically follows that the board also has the duty to collect the rents and charges which it makes. The language of Section 6117.02, *supra*, clearly provides that moneys are collected and then paid to the county treasurer; thus, it appears obvious that there is no intent that the treasurer should do the billing and collecting.

As to the sanitary engineer, he has the duty to aid the board of county commissioners in performing the duties prescribed by Sections 6117.01 to 6117.45, inclusive, Revised Code, and the task of billing and collecting rents and charges could properly be given to him by the board. While this would appear to be the best method of handling the collection duties, it would be at the discretion of the board whether such a policy should be followed.

Accordingly, it is my opinion and you are advised that when, pursuant to Section 6117.01 *et seq.*, Revised Code, a board of county commissioners lays out, establishes and maintains a sewer district in the county, the

board has the duty to bill and collect the rents and charges of the district; and the board may perform this duty itself, or delegate said duty to the sanitary engineering department authorized by said Section 6117.01.

Respectfully,

MARK McELROY

Attorney General