

**OPINION NO. 77-010****Syllabus:**

The compensation of the sanitary engineer provided for in R.C. 6117.01, his assistants, and the expenses of remodeling and repairing the business office of the department of the sanitary engineer may be properly paid from funds collected as rents in a single county-wide sewer district, pursuant to R.C. 6117.02.

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**To: Stephan M. Gabalac, Summit County Pros. Atty., Akron, Ohio**  
**By: William J. Brown, Attorney General, March 3, 1977**

I have before me your request for my opinion concerning the use of funds collected pursuant to R.C. 6117.02. Specifically, you state:

"We have been requested to ask you for an opinion as to whether funds collected from a single county-wide sewer district under the authority of Ohio Revised Code Section 6117.02 may be used for the following purposes:

1. The remodeling and repair of the business office of the department of the Sanitary Engineer; or
2. The compensation of the Sanitary Engineer and his personnel."

R.C. 6117.01 authorizes a board of county commissioners to lay out, establish and maintain one or more sewer districts within their county for the purpose of preserving and promoting

the public health and welfare. Further, it provides, in pertinent part, as follows:

" . . . Any such board may employ a registered professional engineer for such time and on such terms as it deems best, and may authorize such registered professional engineer to employ necessary assistants upon such terms as are fixed by said board. The board may create and maintain a sanitary engineering department, to be under its supervision and in charge of a registered professional 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 of the Revised Code, or its other duties regarding sanitation provided by law. Said board shall provide suitable rooms for the use of such department and shall provide for and pay the compensation of such registered professional engineer and all necessary expenses of such registered professional engineer and department which are authorized by such board."

(Emphasis added.)

Thus, it is clear that it is the duty of the county commissioners to provide the compensation of the registered professional engineer employed and to pay all necessary expenses of such engineer and sanitary engineering department, including providing office space and rooms.

R.C. 6117.02 provides that the county commissioners shall fix reasonable rates to be charged for the use of the sewage facilities established pursuant to R.C. 6117.01. It also specifically states for what purposes the moneys collected as rents may be used, and reads in pertinent part:

"All moneys collected as rents for use of such sewers or sewerage treatment or disposal works or as connection 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. Except as otherwise provided in any resolution authorizing or providing for the security and payment of any bonds outstanding on the effective date of this act or thereafter issued, or in any indenture or trust agreement securing such bonds, such funds shall be used first for the payment of the cost of the management, maintenance, and operation of the sewers of the district and sewerage treatment or disposal works used by the district and second for the payment of interest or principal of any outstanding debt incurred for the construction of such sewers or sewerage treatment or disposal works or for the creation of a sinking fund for the payment of such debt. Any surplus thereafter remaining in such fund may be used for the enlargement, extension or replacement of such sewers and sewerage treatment or disposal works. Money so collected shall not be

expended otherwise than for the use and benefit of such district." (Emphasis added.)

It has been held that authority to expend public funds must be construed strictly and cases of doubt must be resolved against such authority. State, ex rel. Bentley and Sons Co. v. Pierce, 96 Ohio St. 44 (1917); 1976 Op. Atty. Gen. No. 76-008; 1975 Op. Atty. Gen. No. 75-008. It is clear then that all moneys collected by the county as a result of its operation of a sewer district are to be kept in a distinct fund and expended only for such purposes as are specifically enumerated or as would otherwise be for the use and benefit of the district.

In 1932 Op. Atty. Gen. No. 4405, my predecessor had occasion to consider a situation which is analogous to your instant questions. The question addressed in that opinion was whether an automobile may be purchased for the Sanitary Engineer from funds derived from water rentals pursuant to G.C. 6602-17 (R.C. 6103.02).

R.C. 6103.02 discusses the disposition of funds collected as water rentals for the furnishing of a water supply system to the residents of an established sewer district (pursuant to R.C. 6117.01) of the county. It reads substantially the same as R.C. 6117.02 with regard to the specific disposition of the funds collected as rents. My predecessor, after citing G.C. 6602-17 (R.C. 6103.02), concluded that all costs properly incident to the operation of the sewer and water supply systems may be paid from the moneys collected as water rentals, including that of an automobile to be used for the purposes of maintaining the system in efficient working order.

The instant situation is clearly analogous. The language of R.C. 6117.02 specifying for what purposes moneys collected for sewage rentals may be used is substantially similar to that of R.C. 6103.02. It is equally clear that remodeling and repair of the business office of the department of Sanitary Engineer is incident to the proper management, maintenance, and operation of the sewer district.

With regard to the compensation of the sanitary engineer, it is also clear that such an expense is incident to the proper management, maintenance, and operation of the sewer district. It is the sanitary engineer's duty pursuant to R.C. 6117.01 to assist in the entire operation of the sewer district, and therefore he is vital to the proper operation of the district. As such, his compensation (and that of his personnel) may be properly paid from the moneys collected pursuant to R.C. 6117.02.

I am not unmindful that R.C. 6117.25 and R.C. 6117.31 both provide methods by which the county commissioners may raise money to pay the sanitary engineer, his assistants, and all his other necessary expenses, which would certainly include the remodeling and repair of business offices. Specifically, R.C. 6117.25 provides in part that the board of county commissioners may borrow money to pay the costs of constructing a sewage system pursuant to R.C. 6117.01, including the payment of a county sanitary engineer and his assistants and other necessary expenses. In addition, R.C. 6117.31

provides that for the purpose of paying the county sanitary engineer provided for in R.C. 6117.01, and for paying his assistants and all of his other necessary expenses, the county commissioners may levy taxes in addition to all other taxes authorized by law.

Neither of these provisions, however, restricts the payment of the sanitary engineer, his assistants, or his necessary expenses to solely the methods provided therein. Furthermore, R.C. 6117.25 itself expressly includes the payment of the sanitary engineer and his assistants and other necessary expenses as part of the cost of constructing, maintaining, repairing, or operating any improvement provided for in R.C. Sections 6117.01 through 6117.45. I must conclude then that the methods provided in R.C. 6117.25 and R.C. 6117.31 are not the exclusive methods of paying the above-mentioned expenses and that such payments may be made from moneys received pursuant to R.C. 6117.02.

Therefore, it is my opinion and you are so advised that the compensation of the sanitary engineer provided for in R.C. 6117.01, his assistants, and the expenses of remodeling and repairing the business office of the sanitary engineer may be properly paid from funds collected as rents in a single county-wide sewer district, pursuant to R.C. 6117.02.