

OPINION NO. 68-124**Syllabus:**

A regional water district created pursuant to Chapter 6119, Revised Code, is without authority to expend public funds to conduct an educational campaign, the ultimate goal of which is to insure passage of an issue to finance by general obligation bonds, the construction of a water system to serve water to citizens of the water district.

To: James V. Barbuto, Summit County Pros. Atty., Akron, Ohio
By: William B. Saxbe, Attorney General, August 15, 1968

I have before me your request for my opinion which states:

"May a regional Water District created pursuant to Chapter 6119 of the Revised Code of Ohio expend public funds to carry out a campaign of education, the ultimate aim of which is the passage of an issue to finance by general obligation bonds, the construction of a water system to serve water to the citizens of the water district?"

In reviewing the several opinions of the Attorney General which you have cited, it is apparent that without specific statutory authority, spending public funds to carry out a campaign by the regional water district would not be lawful. Those opinions have held that if no express authority is given for a governmental entity to spend public funds, then the question of or attempted expenditure should be resolved against the expenditure and for the interests of the taxpayers.

The question here remains, "Is a local water district a governmental, i.e., public office or a semi-public entity such as a regulated utility?" A close scrutiny of the entire chapter on Regional Water and Sewer Districts (Chap. 6119, Revised Code) indicates that the legislature intended these organizations to be considered as public offices. Section 6119.38, for example, subjects the districts to examination by the Bureau of Inspection of Public Offices. Section 6119.39, Revised Code, states that employees of the local water and sewer district are to be considered public employees. The aforementioned statutes indicate an intent by the legislature to include the water and sewer districts within the category of a public office. Such a manifest intent on the part of the legislature to include water and sewer districts within the meaning of a public office precludes the possibility that they should be considered public utilities such as Ohio Power or other such regulated public utilities. The water and sewer districts, unlike the regulated public utilities, operate on public funds which must be raised through the ballot box. If viewed in this perspective, it would be incongruous to consider regional water and sewer districts synonymous with a regulated public utility, which is basically a private enterprise function.

Previous opinions of the Attorney General have restated the need for proper statutory authorization before a public office may spend public funds for any purpose. These opinions state clearly the need for specific statutory authority. We search in vain for such authority.

Opinion No. 1245, Opinions of the Attorney General for 1937, states the position of this office. It reads:

"There is no question but that a reasonable expenditure of public funds to advertise the necessity of a tax levy in certain cases would be perhaps a proper and in some instances a laudable purpose, but, as has been stated by this office, it is a lawful rather than a laudable purpose that justifies the expenditure of the taxpayers' money. The remedy in the in-

stant case is obviously with the legislature."

Therefore, it is my opinion and you are so advised that a regional water district created pursuant to Chapter 6119, Revised Code, is without authority to expend public funds to conduct an educational campaign, the ultimate goal of which is to insure passage of an issue to finance by general obligation bonds, the construction of a water system to serve water to citizens of the water district.