



Ohio Revised Code

Section 6101.24 Water rights and uses - rates.

Effective: August 11, 1969

Legislation: House Bill 85

The rights of landowners, municipal corporations, corporations, and other users of waters to the waters of the conservancy district for domestic use, water supply, industrial purposes, water power, or for any other purposes are to remain the same as were owned by them prior to the organization of the district, and to such use as could be made of such waters if the improvements of the district had not been made. Wherever the improvements made by the district make possible a greater, better, or more convenient use of, or benefit from, the waters of the district for any purpose, the right of such greater, better, or more convenient use of, or benefit from, such waters shall be the property of the district. Such rights may be leased, sold, or assigned by the district in return for reasonable compensation. If a district has as one of its purposes the provision of water supply, the persons and public corporations assessed for the cost of building or acquiring properties, works, and improvements for such purpose shall have priority in the purchase of the waters made available thereby, and no sale, lease, or assignment shall be made under this section which will deprive any such person or public corporation without his or its consent, of the right to purchase and use a share of such water supply proportionate to the assessments imposed upon him or it for water supply purposes.

Where the district is a riparian owner along the streams of the district, it has in addition the rights which go with riparian ownership.

All the rights and property of the district in the waters and watercourses of the district, and in their uses, shall be exercised in such manner as to promote the welfare of the district, and of all inhabitants thereof, and to promote the safest and most economical and reasonable use of the waters thereof, to encourage and promote industries and agriculture, and to pay the cost of the construction and maintenance of the improvement. Charges for such use shall not be greater than are necessary to accomplish these purposes.

Persons or public corporations desiring to secure such use of the waters or watercourses of the district, or of the district rights therein, may apply to the board of directors of the conservancy



district for lease, purchase, or permission for such use. Such application shall state the purpose and character of such use, the period and degree of continuity of such use, the amount of water desired, and the place of use. In case any party makes greater, better, or more convenient use of the waters of the district without formal application, the fact of such use shall serve all purposes of an application, and the board may proceed to determine a reasonable rate of compensation the same as though formal application had been made. Where it is not possible or reasonable to grant all applications, preference shall be given to the greatest need and to the most reasonable use, as is determined by the board, subject to the approval of the court.

No charge shall be made for the use of water taken by private persons for home and farmyard use, or for watering stock.

The board shall not permanently sell, lease, assign, permit, or otherwise part with the control by the district of the use of the waters thereof, and rates for light, power, or other services charged by vendees, assignees, lessees, or licensees of such board are subject at all times to revision and control by state law. Assignments, leases, sales, or permissions may be made for periods of not greater than fourteen years, except that, in the case of public corporations desiring to purchase or use water for public water supply purposes, such assignments, leases, sales, or permissions may, subject to the approval of the court, be made for periods longer than fourteen years upon determination by the board that the longer period fixed by the board is necessary in order to justify and render practical the carrying out of a long term plan for new or improved public water supply by the assignee, lessee, vendee, or licensee and that such use of said water during such longer period will fill the greatest foreseeable need and constitute the most reasonable foreseeable use during the longer period fixed by the board. At the termination of the period of such assignments, sales, leases, or permissions, they shall be renewed for a reasonable period not to exceed fourteen years, or the period of the assignment, sale, lease, or permission then terminating, whichever is greater, on the condition that a new determination is made of a reasonable charge therefor, as provided in this section, unless there are other applications on file, the granting of which would result in filling a greater need or in a more reasonable use. In case such applications are on file, they shall have preference.

The board may determine the rates of compensation for the measurement of the increased, better, or more convenient use of, or benefit from, the water supply of the district, for determining rates of compensation, and for securing to all parties interested the greatest and best use of the water thereof.



The board may make regulations for the determination and greater, better, or more convenient use of, or benefit from, the waters of the district and for the sale of water made available by the works and improvements built or acquired by the district for the purpose of water supply, which rates shall be reasonable, and it may require bond to be given to secure the payment for such use. Upon the determination of any rate, the board shall make a report of its determination to the court. The court shall thereupon cause notice by summons or publication to be given to the parties interested, stating that such a determination of rate has been made, that a hearing before the court will be had thereon on a certain day, and that objection may be made at such time to such determination of rates. A hearing may be had before the court and objections may be made in the same manner as in case of the appraisal of benefits. Upon the final determination of the matter by the court, the determination of such rates of compensation are conclusive and binding for the term and under the conditions specified in the lease or other agreement. In case of failure of any user to pay for use in the manner specified by order of the court, the board may compel payment, and may enjoin further use until such payment is made. The rights under any lease or sale shall not extend to a change of use, or of place, time, or manner of use, except in so far as is specifically stated in the lease or other agreement.

The compensation for greater, better, or more convenient use of, or benefit from, the waters of the district may be made by payment according to a unit price per cubic foot of water used, or by a unit price for theoretical horsepower developed, or in any other reasonable measurement of value received by reason of the greater, better, or more convenient use of, or benefit from, the waters of the district. All money received as compensation under this paragraph shall be added to the funds of the district and used for defraying the expenses thereof.

As a basis for assessment of benefits due to a greater, better, or more convenient use of, or benefit from, the waters of the district, the board may make a determination of the conditions of the water supply and of the watercourses of the district as they were before the improvements were made, or as they existed at any subsequent time, and it may make a determination of all rights, property, easements, or other interests in the waters, or the watercourses of the district, such determination being based upon records of greatest and least flow, upon the evidence of use or evidence of legal rights, and upon any other evidence and records which are available. Upon the completion of such determination, the board shall make its report thereon to the court. Thereupon notice shall be given of the pendency of said report and a hearing thereon, which notice and hearing shall conform as



nearly as possible to the notice and hearing on appraisals of benefits and of land to be taken, and the same right of appeal exists. Upon the determination of the matter by the court, its findings are conclusive and shall be the basis of any future assessment for the use of the waters of the district, provided that in case any party thereafter establishes in court any right or property in the waters of the district or the use thereof which has not been adjudicated, the existence of such right, or the failure to adjudicate it, shall not affect the operation of this provision nor the findings of the court thereon in any other particular.

The rights of the district to the waters of the district, or the use thereof, or to the land within the district and owned by it, shall not be lost by the district by prescription or by adverse possession.

Except in the case of benefits derived from the properties, works, and improvements acquired or constructed for the purpose of water supply, the appraisal of benefits made by the board of appraisers of the district shall not include benefits for such greater, better, or more convenient use of, or benefit from, the waters of the district, but the compensation for such use or benefits shall be made according to this section.