



## Ohio Revised Code

### Section 6103.02 Powers of county commissioners regarding public water supply.

Effective: October 16, 2009

Legislation: House Bill 1 - 128th General Assembly

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(A) For the purpose of preserving and promoting the public health and welfare, a board of county commissioners may acquire, construct, maintain, and operate any public water supply facilities within its county for one or more sewer districts and may provide for their protection and prevent their pollution and unnecessary waste. The board may negotiate and enter into a contract with any public agency or any person for the management, maintenance, operation, and repair of the facilities on behalf of the county, upon the terms and conditions as may be agreed upon with the agency or person and as may be determined by the board to be in the interests of the county. By contract with any public agency or any person operating public water supply facilities within or without its county, the board also may provide a supply of water to a sewer district from the facilities of the public agency or person.

(B) The county sanitary engineer or sanitary engineering department, in addition to other assigned duties, shall assist the board in the performance of its duties under this chapter and shall be charged with other duties and services in relation to the board's duties as the board prescribes.

(C) The board may adopt, publish, administer, and enforce rules for the construction, maintenance, protection, and use of county-owned or county-operated public water supply facilities outside municipal corporations and of public water supply facilities within municipal corporations that are owned or operated by the county or that are supplied with water from water supply facilities owned or operated by the county, including, but not limited to, rules for the establishment and use of any connections, the termination in accordance with reasonable procedures of water service for nonpayment of county water rates and charges, and the establishment and use of security deposits to the extent considered necessary to ensure the payment of county water rates and charges. The rules shall not be inconsistent with the laws of the state or any applicable rules of the director of environmental protection.

(D) No public water supply facilities shall be constructed in any county outside municipal



corporations by any person, except for the purpose of supplying water to those municipal corporations, until the plans and specifications for the facilities have been approved by the board. Construction shall be done under the supervision of the county sanitary engineer. Any person constructing public water supply facilities shall pay to the county all expenses incurred by the board in connection with the construction.

(E) The county sanitary engineer or the county sanitary engineer's authorized assistants or agents, when properly identified in writing or otherwise and after written notice is delivered to the owner at least five days in advance or mailed at least five days in advance by first class or certified mail to the owner's tax mailing address, may enter upon any public or private property for the purpose of making, and may make, surveys or inspections necessary for the design or evaluation of county public water supply facilities. This entry is not a trespass and is not to be considered an entry in connection with any appropriation of property proceedings under sections 163.01 to 163.22 of the Revised Code that may be pending. No person or public agency shall forbid the county sanitary engineer or the county sanitary engineer's authorized assistants or agents to enter, or interfere with their entry, upon the property for the purpose of making the surveys or inspections. If actual damage is done to property by the making of the surveys or inspections, the board shall pay the reasonable value of the damage to the property owner, and the cost shall be included in the cost of the facilities and may be included in any special assessments levied and collected to pay that cost.

(F) The board shall fix reasonable rates, including penalties for late payments, for water supplied to public agencies and persons when the source of supply or the facilities for its distribution are owned or operated by the county and may change the rates from time to time as it considers advisable. When the source of the water supply to be used by the county is owned by another public agency or person, the schedule of rates to be charged by the public agency or person shall be approved by the board at the time it enters into a contract for the use of water from the public agency or person.

When the distribution facilities are owned by the county, the board also may fix reasonable charges to be collected for the privilege of connecting to the distribution facilities and may require that, prior to the connection, the charges be paid in full or, if determined by the board to be equitable in a resolution relating to the payment of the charges, may require their payment in installments, as considered adequate by the board, at the times, in the amounts, and with the security, carrying



charges, and penalties as may be determined by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify, to the county auditor, information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The county auditor shall record and maintain the information so supplied in the waterworks record provided for in section 6103.16 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and other charges for water supplied. In addition, the board may consider payments made to a school district under section 6103.25 of the Revised Code when the board establishes rates and other charges for water supplied.

A board may establish discounted rates or charges or may establish another mechanism for providing a reduction in rates or charges for persons who are sixty-five years of age or older. The board shall establish eligibility requirements for such discounted or reduced rates or charges, including a requirement that a person be eligible for the homestead exemption or qualify as a low- and moderate-income person.

(G) When any rates or charges are not paid when due, the board may do any or all of the following:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor. The county auditor shall place the certified amount upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;



(3) Terminate, in accordance with established rules, the water service to the particular property unless and until the unpaid rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of the unpaid rates and charges, together with any penalties, for water service to the particular property.

All moneys collected as rates, charges, or penalties fixed or established in accordance with division (F) of this section for water supply purposes in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct water fund established by the board to the credit of the district.

Each board that fixes water rates or charges may render estimated bills periodically, provided that at least quarterly it shall schedule an actual reading of each customer's meter so as to render a bill for the actual amount shown by the meter reading to be due, with credit for prior payments of any estimated bills submitted for any part of the billing period, except that estimated bills may be rendered if a customer's meter is not accessible for a timely reading or if the circumstances preclude a scheduled reading. Each board also shall establish procedures providing a fair and reasonable opportunity for the resolution of billing disputes.

When property to which water service is provided is about to be sold, any party to the sale or an agent of a party may request the board to have the meter at that property read and to render, within ten days following the date on which the request is made, a final bill for all outstanding rates and charges for water service. The request shall be made at least fourteen days prior to the transfer of the title of the property.

At any time prior to a certification under division (G)(1) of this section, the board shall accept any partial payment of unpaid water rates or charges in the amount of ten dollars or more.

Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the water fund shall be applied first to the payment of the cost of the



management, maintenance, and operation of the water supply facilities of, or used or operated for, the sewer district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of water supply facilities and, in accordance with a cost allocation plan adopted under division (H) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for the purposes of this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of water supply facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the water fund shall not be expended other than for the use and benefit of the district.

(H) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from the water fund of the sewer district created pursuant to division (G) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from the fund of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter. The plan shall not authorize payment from the fund of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.