



Ohio Revised Code

Section 6119.04 Hearing on petition for establishment.

Effective: December 21, 1998

Legislation: Senate Bill 201 - 122nd General Assembly

(A) The court of common pleas constituted as provided in section 6119.03 of the Revised Code, at its first meeting, shall fix the time and place of a hearing on the petition for the establishment of the proposed regional water and sewer district. The hearing shall be either preliminary or final as the petition may request and shall be held not later than sixty days thereafter. The clerk of the court shall give notice of the hearing by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. The clerk shall send a notice of the hearing by certified mail to the director of environmental protection.

Any person or any political subdivision residing or lying within an area affected by the organization of the district, on or before the date set for the cause to be heard, may file an objection to the granting of the requests made in the prayer of the petition.

(B) Upon a preliminary hearing, if it appears that the proposed district probably is necessary and that it probably will be conducive to the public health, safety, convenience, or welfare, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall issue a preliminary order declaring the district to be organized and an independent political subdivision of the state with a corporate name designated in the order for the purpose of all of the following:

- (1) The election or appointment of the board of trustees in the manner provided in the petition;
- (2) The election, appointment, or employment of officers, employees, accounting experts, engineers, attorneys, financial consultants, architects, other consultants, and independent contractors or other persons that may be necessary to prepare a plan for the operation of the district;
- (3) The collection of the funds in the manner provided in the petition to be used and disbursed by the district;



(4) The preparation of a plan for the operation of the district.

The district shall possess powers that may be necessary to carry out those purposes.

The preliminary order shall direct the district to file a plan for the operation of the district within six months from the date of the preliminary order or within the further time or times that the court from time to time may order.

Upon the filing by the district of a plan for the operation of the district, the court shall fix the time and place for a final hearing on the petition for the establishment of the proposed district and the plan for the operation of the district as filed in the proceeding. The hearing shall be held not later than sixty days thereafter, and the clerk of the court of common pleas again shall give notice of the hearing as required in division (A) of this section.

Any person or any political subdivision residing or lying within the area affected by the organization of the district or by the plan for the operation of the district, on or before the date set for the cause to be heard, may file any objections to the final organization of the district or the plan for the operation of the district.

(C) If, prior to granting a final order, the court determines that additional study is needed of the feasibility of establishing the district, the court shall order the signers of the petition to conduct an additional feasibility study. If the court has ordered such a study, the court shall not grant a final order prior to receiving the results of the study. Nothing in division (C) of this section precludes the awarding of a contract for a project or improvement undertaken under this chapter to an entity that conducts a feasibility study pursuant to division (C) of this section.

The court, upon good cause shown at any time before the granting of a final order, may do any or all of the following:

(1) Grant a right to any municipal corporation or county acting in behalf of a sewer district within the county to become a party to the proceeding if the intervening party requests to have some part or all of its territory included within the district;



(2) Grant in part or in toto an intervening petition of a municipal corporation or a county acting in behalf of a sewer district within the county, which is not wholly included within territory described in the petition, to have some part or all of its territory included within the district;

(3) Grant a request filed by any party to the petition or intervening party to modify any request set forth in the petition, including any or all of the following:

(a) A reduction in the territory to be included within the district;

(b) Addition to or deletion of a purpose or purposes of the proposed district as set forth in the petition so long as the purposes that remain are those included within section 6119.01 of the Revised Code;

(c) The manner of selection, the number, the term, and the compensation of the members of the board of trustees.

After the filing of any intervening petition or request to modify, the court shall fix a time and place for a hearing thereof, which shall be held not less than sixty days after the filing thereof. The clerk of the court of common pleas shall give notice of the hearing as required in division (A) of this section.

(D) Upon final hearing, whether or not a preliminary hearing is requested in the petition, if it appears that the proposed district is necessary, that it and the plan for the operation of the district are conducive to the public health, safety, convenience, and welfare, and that the plan for the operation of the district is economical, feasible, fair, and reasonable, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall declare the district finally and completely organized and to be, or to be empowered to continue as, a political subdivision. Thereupon the district shall have power to sue and be sued; to incur debts, liabilities, and obligations; to exercise the right of eminent domain and of taxation and assessment as provided in this chapter; to issue bonds; and to perform all acts authorized in this chapter and to execute and carry out the plan for the operation of the district and to amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may determine necessary.

(E) If the court finds that the organization of the district is not necessary or will not be conducive to the public health, safety, convenience, or welfare, or that the plan for the operation of the district is



not economical, feasible, fair, or reasonable, or if the district fails to file a plan for the operation of the district within the time prescribed by the court, it shall dismiss the proceedings and adjudge the costs against the petitioners. If a preliminary order has been made organizing the district, the court shall declare the district dissolved and enter its order for the distribution of any and all assets that may be owned by the district after the payment of its liabilities.

(F) Any municipal corporation, board of county commissioners, or board of township trustees may advance to the district sums of money that the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees determines will not be in excess of the benefits that can be anticipated to be derived by the municipal corporation, county, or township from the establishment of the district at times that are requested by the district and authorized by the legislative authority or board and pursuant to an agreement between the district and the municipal corporation, county, or township setting forth whether and when the sums shall be repaid. The sums when paid to the district at any time after the preliminary order of the court shall be used by the district for its purposes in the preparation of a plan for the operation of the district and for other purposes of the district. The district shall keep proper records showing the amount so advanced and disbursed. If the court orders the district dissolved as permitted in this section, the interest any municipal corporation, board of county commissioners, or board of township trustees has in the assets of the district shall be limited to those assets remaining after the payment of all other liabilities of the district.