



Ernie Fletcher
Governor

Mark David Goss
Chairman

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460

Ellen C. Williams
Vice Chairman

Christopher L. Lilly
Commissioner
Department of Public Protection

Gregory Coker
Commissioner

March 23, 2005

Ms. Carolyn Smith
Knox County Utility Commission
P.O. Box 8
Artemus, Kentucky 40903

Dear Ms. Smith:

Commission Staff acknowledges receipt of your letter of March 2, 2005 in which Knox County Utility Commission inquires about the authority of a fiscal court to establish a salary level for the members of the board of commissioners of a water district.

In your letter, you present the following question: If a fiscal court retroactively affirms or ratifies the salary level that the members of the board of commissioners of a water district has been receiving for several years, does that action require the fiscal court to continue that salary prospectively?

KRS 74.020(6) provides:

Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars (\$3,600), which shall be paid out of the water district fund, except that beginning January 1, 1999, each commissioner who completes during an educational year a minimum of six (6) instructional hours of water district management training approved by the Public Service Commission may receive an annual salary of not more than six thousand dollars (\$6,000) to be paid out of the water district fund. An educational year shall begin on January 1 and end on the following December 31. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multicounty districts, it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of

Ms. Carolyn Smith
March 23, 2005
Page 2

the district and its ability to meet its obligations as they mature.

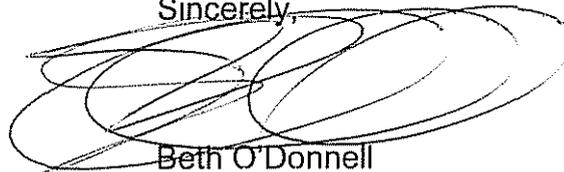
The Attorney General in OAG Opinion 77-425 opined that a fiscal court may ratify payments made to the members of a board of commissioners in previous years provided "that the district's financial condition and ability to meet its obligations as they mature will permit." When ratifying the prior salary levels, a fiscal court would be "merely doing what they could have done and should have done." The Attorney General did not interpret KRS 74.020(6) as requiring the fiscal court to maintain current salary levels at the previous salary levels.

Commission Staff is of the opinion that a fiscal court's decision to ratify a previous salary level for the members of a board of commissioners does not limit the fiscal court's authority to establish a different salary level prospectively. KRS 74.020(6) clearly provides that fiscal courts are to periodically review the salary levels to ensure that these levels are appropriate given "the financial condition of the district and its ability to meet its obligations as they mature." Having ratified a prior year's salary level, a fiscal court may properly determine that a water district's current financial condition requires a different salary level for current and future years.

At your request, I am furnishing a copy of this letter to the members of Knox County Fiscal Court and the Knox County Judge Executive.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Gerald Wuetcher, Assistant General Counsel, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth O'Donnell", written over a large, light-colored oval shape.

Beth O'Donnell
Executive Director

cc: Hon. Charles G. Dixon, Jr.
Hon. Bruce A. Murphy
Hon. Carson Gilbert
Hon. Willard Bargo
Hon. Vemon Dale Hamilton
Hon. Doyle Gibson
Hon. Giulio Cima