



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

ROBERT F. STEPHENS
ATTORNEY GENERAL

FRANKFORT
March 28, 1978

CHARLES W. RUNYAN
ASSISTANT DEPUTY ATTORNEY GENERAL

Honorable Jimmie W. Greene
McCreary County Judge/Executive
Courthouse
Whitley City, Kentucky 52653

JAG 78 215

Dear Judge Greene:

You have written that a water district commissioner spends a good part of his time in Florida and thus cannot perform his function. You ask about the possibility of his removal from office. Your specific question is whether or not you, as appointing authority, can remove this water commissioner from office. The answer is "no".

The appointments to the water district board of commissioners and filling of vacancies are made by the county judge/executive, with approval of fiscal court. KRS 67.710(8) and 74.020(1) and (2). Vacancies are filled by the county judge/executive, with approval of fiscal court.

KRS 74.060 contained a provision that the power of appointment includes the power of removal for cause, after a hearing. But the statute was repealed in the 1976 Acts (Ch. 174, §3).

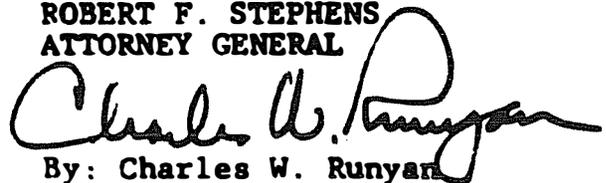
It is our opinion that the Public Service Commission may remove any water commissioner from his office for good cause, including, inter alia, neglect of duty, pursuant to KRS 74.455(1). No such order of removal can be entered until a

Mr. Jimmie W. Greene
Page 2.

public hearing on the merits with reference to such matter has been held by the commission, at which hearing the water commissioner proposed to be removed from office shall be afforded the opportunity to appear, either pro se, or by counsel and file briefs, memoranda and motions, cross-examine witnesses, examine exhibits, and present evidence, both orally and in writing. All such orders of removal of the Public Service Commission shall be final and not subject to appeal, except where the orders are claimed to be arbitrary. Section 2, Kentucky Constitution. Any water commissioner may waive the public hearing.

Sincerely,

ROBERT F. STEPHENS
ATTORNEY GENERAL



By: Charles W. Runyan
Assistant Deputy Attorney General

CWR:sb