

Ky. OAG 78-341, 1978 WL 26385 (Ky.A.G.)

*1 Office of the Attorney General

Commonwealth of Kentucky

OAG 78-341

May 18, 1978

Mr. Sidney Taylor
Third District Magistrate
McCreary County Courthouse
Whitley City, Kentucky 42653

Dear Mr. Taylor:

This is in reply to your letter raising a question concerning the appointment of a water district commissioner. You state that the county judge/executive nominated three persons for the position, all of whom were rejected by the fiscal court. You ask whether the senior magistrate or the superintendent of the water district may recommend and appoint a water district commissioner.

We direct your attention to [KRS 74.020\(1\)\(a\)](#), dealing in part with the appointment of water district commissioners, which provides:

“If a district lies wholly within a single county, or operates as a single county district as provided in paragraph (c) of this subsection, the board of commissioners shall consist of three (3) residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. . . .” (Emphasis added.)

Note the provisions of [KRS 74.020\(2\)](#) concerning vacancies:

“Vacancies shall be filled by the same appoint-

ing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.”

Furthermore, in multi-county water districts the board of commissioners of such districts shall be appointed by the county judge/executives with the approval of the fiscal courts of the concerned counties. See [KRS 74.020\(1\)\(b\)](#).

Thus, regardless of whether you are concerned with a single county water district or multi-county water district or an original appointment or an appointment to fill a vacancy, the appointment process is the same. The statute states that a water district commissioner shall be appointed by the county judge/executive with the approval of the fiscal court. See OAG 78-215, copy enclosed. There is no statutory authority for such an appointment to be made by a magistrate, acting unilaterally, or by the superintendent of the water district. The county judge/executive will have to keep recommending and nominating persons for the position until a name is submitted which meets the approval of the fiscal court. The appointment procedure is a joint process involving the county judge/executive and the fiscal court and the statute contemplates an appointment acceptable to both.

Very truly yours,
Robert F. Stephens
Attorney General

By: Thomas R. Emerson
Assistant Attorney General

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