

1984 Ky. Op. Atty. Gen. 2-258, Ky. OAG 84-228,
1984 WL 185630 (Ky.A.G.)

*1 Office of the Attorney General

Commonwealth of Kentucky

OAG

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June 22, 1984

Mr. Sam W. Moore II
Green County Attorney
P.O. Box 146
131 North Public Square
Greensburg, Kentucky 42743

Dear Mr. Moore:

Your questions concern a water district. Your letter reads in part:

“When the statute specifies that the commissioners shall be residents of the district, does this mean customers of the district or just those persons living within the franchised boundaries of the district?”

“If your answer to the above question is that the commissioners need not be customers, then I submit to you that the By-Laws of Green-Taylor Water District provide that a commissioner must be a customer of the district and my question is this:

“If the by-laws of a water district are more restrictive than the applicable Kentucky statute on appointment of commissioners, then which controls, and is the county judge executive who makes the appointment bound by the more restrictive by-laws provision?”

You have indicated by phone that the Green-Taylor Water District originated in Green County but was

expanded over into Taylor County. Thus [KRS 74.020\(1\)\(b\)](#) applies. That subsection provides that the county judge executives with the approval of the fiscal courts shall appoint three (3) members “from the original district” and two (2) members “from the extended portion of the district” to the board of commissioners. (Emphasis added).

It is our opinion that, under the literal terms of the statute, only residency in the water district is significant. The statute does not require such board members to be customers (buy water from the district) of the water district. The Supreme Court of Kentucky wrote in [Bailey v. Reeves, Ky., 662 S.W.2d 832 \(1984\)](#) 834, that “We are required to give the words of the statute written by the legislature their plain meaning. To do so restricts us from adding restrictive language . . . where it does not now exist.”

Concerning the second question, the by-laws of a water district must be in harmony with the statutes. Thus [KRS 74.020](#) controls, and the by-laws, to the extent that they further require that water district board members be customers of the water district is in conflict with [KRS 74.020](#).

Sincerely,
David L. Armstrong
Attorney General

By: Charles W. Runyan
Assistant Deputy Attorney General

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