

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KARA WILSON,)	
COMMISSIONER OF JONATHAN CREEK)	
WATER DISTRICT FOR EXTENSION OF TIME)	CASE NO.
TO COMPLETE WATER DISTRICT)	2019-00054
MANAGEMENT TRAINING DUE TO HARDSHIP)	

ORDER

This matter arises from an application by Kara Wilson, a commissioner of the Jonathan Creek Water District (Jonathan Creek District), for an extension of time to complete her six instructional hours of water district management training under KRS 74.020(6) and (7) for the 2018 educational year due to a hardship. Having reviewed the record and being otherwise sufficiently advised, the Commission agrees that the circumstances presented by Ms. Wilson justify granting her the requested extension. However, for the reasons discussed below, KRS 74.020 does not permit the Commission to grant an extension under any circumstances and, therefore, the Commission must deny Ms. Wilson's request for an extension.

BACKGROUND

Ms. Wilson was appointed to the Board of Commissioners for Jonathan Creek District by the Marshall County Fiscal Court on February 7, 2017, to complete the term of Leon Lovett, whose term was scheduled to expire on June 30, 2018. Following that initial

appointment, Ms. Wilson completed twelve hours of new commissioner training in September 2017 as required by KRS 74.020(8).¹

Ms. Wilson was reappointed to the Board of Commissioners of Jonathan Creek District for a four-year term in 2018. Ms. Wilson intended to complete her six hours of water district management training for 2018 at the Commission's Water Training Seminar held at the Kentucky Dam Village State Resort Park on September 19, 2018, and September 20, 2018. However, on August 6, 2018, Ms. Wilson was diagnosed with cancer and was required to undergo chemotherapy beginning September 6, 2018, and ending December 27, 2018. Due to her treatment and its side effects, Ms. Wilson was not able to complete her six hours of water management training in the 2018 educational year.²

Upon completion of her first round of chemotherapy, Ms. Wilson attended both days of the Commission's Water Personnel Training Seminar at the Kentucky Dam Village State Resort Park on March 19, 2019, and March 20, 2019 (a total of 12 training hours).³ Moreover, when Ms. Wilson was undergoing her chemotherapy between September 6, 2019, and December 27, 2019, she attended all but one of the monthly meetings for the Jackson Creek Board of Commissioners.⁴

¹ Application.

² *Id.*

³ Case No. 2019-00103, *Accreditation and Approval of a Public Service Commission Water Personnel Training Seminar as a Water District Commissioner Training Program*, Attendance List (Ky. PSC Apr. 22, 2019).

⁴ Application.

The Marshall County Fiscal Court has permitted and fixed the annual salaries for members of the Jonathan Creek District Board of Commissioners' at \$4,800.00, which is paid in monthly installments of \$400.00. Ms. Wilson received \$4,800.00 in compensation from Jonathan Creek District between January 1, 2018, and December 31, 2018.⁵

DISCUSSION

KRS 74.010 *et. seq.* authorizes the creation of water districts for the purpose of operating drinking water facilities and wastewater treatment and collection facilities. Water districts organized under KRS 74.010, *et. seq.* must be administered by a board of commissioners, which shall control and manage the affairs of the district.⁶ KRS 74.020 imposes initial training requirements on newly appointed water district commissioners and encourages other water district commissioners to complete training by authorizing an increase in compensation if they do so.⁷

Specifically, KRS 74.020(6) states each water district commissioner “shall receive an annual salary of not more than” \$3,600 “except that . . . each commissioner who completes during an educational year a minimum of six (6) instructional hours of water district management training . . . may receive an annual salary of not more than six thousand dollars (\$6,000).” KRS 74.020(7)(a) similarly states that:

In order to receive an increase in salary as specified in subsection (6) of this section, commissioners shall successfully complete six (6) instructional hours of water district management training annually.

⁵ *Id.*

⁶ *See* KRS 74.020(1).

⁷ *See* KRS 74.020(8)(discussing the initial training requirements for newly appointed water district commissioners); KRS 74.020(6) and (7) (discussing the annual training requirement for other water district commissioners).

Importantly, an “educational year,” as used in KRS 74.020(6), “shall begin on January 1 and end on the following December 31.”⁸

KRS 74.020 is plain and unambiguous. It first imposes a mandate through the use of the term “shall” that prohibits a water district commissioner from receiving more than \$3,600 in compensation annually.⁹ It then creates an exception to that mandate by permitting a water district commissioner who completes six hours of annual training between January 1 and December 31 to receive up to \$6,000 in annual compensation during that period. It makes no provision for the Commission to extend the time allowed for water district commissioners to complete the annual training necessary to receive annual compensation in excess of \$3,600. Thus, while the Commission believes that Ms. Wilson has established good cause for her request and commends her for completing 12 hours of training as soon as she was able in April 2019, especially under her circumstances, the Commission has no authority to grant Ms. Wilson’s request in this matter.¹⁰

However, while Ms. Wilson was only eligible for \$3,600 in compensation in 2018 for the reasons discussed above, the Commission observes that Ms. Wilson is eligible for \$6,000 in compensation in 2019 pursuant to KRS 74.020. The salary of water district

⁸ KRS 74.020(6).

⁹ See *Department of Corrections v. Engle*, 302 S.W.3d 60, 64 (Ky. 2010) (quoting Black’s Law Dictionary 1233 (5th ed. 1979)) (“In common or ordinary parlance, and in its ordinary signification, the term ‘shall’ is a word of command and . . . must be given a compulsory meaning.”).

¹⁰ See, e.g. Case No. 2012-00449, *In the Matter of: Legal Qualifications of Rebekah Johnston to Continue to Serve as a Member of the Board of Commissioners of Sandy Hook Water District*, Order (Ky. PSC. Apr. 2, 2013) (where the Commission held that it did not have authority to extend the period in which water district commissioners are required to complete the initial training for newly appointed water district commissioners and that a commissioner who failed to complete the 12 hours of initial training forfeited her seat); see also *Mohammad v. Commonwealth*, 202 S.W.3d 589, 590 (Ky. 2006) (“When the statute is plain and unambiguous, the language of the statute is to be given full effect as written.”).

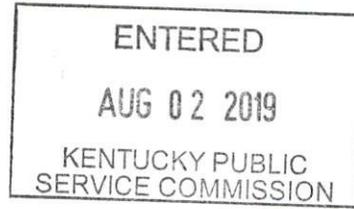
commissioners “shall be fixed by the county judges/executive with the approval of the fiscal court” with consideration, among other things, of the “financial condition of the district and its ability to meet its obligations as they mature.”¹¹ Thus, if the judge/executive and the fiscal court, in consultation with their counsel and based on Ms. Wilson’s effort to complete her 2018 and 2019 training in March 2019, determine it is appropriate, they could potentially increase Ms. Wilson’s salary in 2019 to offset any or a portion of any decrease in 2018 required by KRS 74.020.

IT IS THEREFORE ORDERED that:

1. Ms. Wilson’s application for an extension of time to complete her six instructional hours of water district management training under KRS 74.020(6) and (7) for the 2018 educational year is denied.
2. This case is hereby closed and will be removed from the Commission’s docket.

¹¹ KRS 74.020(6).

By the Commission



ATTEST:


Executive Director

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