

April 9, 2024

Ms. Linda C. Bridwell, P.E.
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Via email: PSCED@ky.gov

Mr. Jim Gazay
Morgan County Judge Executive
450 Prestonsburg Street
West Liberty, KY 41472

Via email: jim.gazay@gmail.com

Re: Morgan County Water District Notice of Board Vacancies

Dear Executive Director Linda Bridwell and County Judge Executive Gazay,

Morgan County Water District (“Morgan District”) hereby gives notice that on April 8, 2024, its Board of Commissioners voted to accept the tendered resignations of Steve Gunnell and Zach Engle, creating two vacancies on its Board of Commissioners. **Commissioner Steve Gunnell’s term expires December 31, 2025; and Commissioner Zach Engle’s term expires December 31, 2028.**

KRS 74.020(10)(a) requires Morgan District to provide notice of the vacancies within 30 days to the Kentucky Public Service Commission and to the Morgan County Judge Executive within 30 days of the date of the vacancy. This constitutes Morgan District’s official notice of the resignations and vacancies. KRS 74.020(4) requires that the vacancies are to be filled by qualified individuals appointed by the Morgan County Judge Executive.

Pursuant to Morgan District’s Board of Commissioner’s Handbook and By-laws, adopted in January 2023, the meetings are conducted using Roberts Rules of Order, and a tendered resignation of a board member, must be formally accepted by a vote of the Board of Commissioners.

The General Manager and the Chair of the Morgan District Board were made aware through social media that the Morgan County Fiscal Court appointed board members prior to the resignation of Mr. Gunnell and Mr. Engle. However, this information was not communicated directly to Morgan District. Chris Adams did appear at the April 8, 2024 Morgan District Board meeting and stated he was appointed by the Morgan County Fiscal Court. Mr. Adams was informed of the legal requirements of KRS 74.020 and that the

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resignations had not been adopted by the Board, but that it was on the agenda. Mr. Adams attended the meeting.

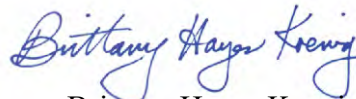
Because Morgan District's Board had not formally accepted the resignations of Mr. Gunnell and Mr. Engle, no vacancies existed that needed to be filled until after the meeting on April 8, 2024. Morgan District wants to be transparent about its duty to follow the Bylaws which dictate that the Morgan District Board accept the resignations of the two resigning board members and that notice be given to the Kentucky Public Service Commission in compliance with KRS 74.020, as well as the Morgan County Judge Executive, so that the Morgan County Judge Executive can appoint a qualified individual pursuant to KRS 74.020.

Morgan District's Board operates pursuant to KRS 74.020, and KRS 74.070; and owes a fiduciary duty to Morgan District and its ratepayers to manage the affairs of the water district in good faith. Any appointed board member owes the same standard of care to manage in the best interests of the water district and its ratepayers, and owes a fiduciary duty to the water district to manage in good faith and declare any conflicts of interest, pursuant to KRS 273.215 and KRS 273.219.

Morgan District requests that copy of this notice be filed in the on-going matter, Case No. 2024-00010, *Electronic Application of Morgan County Water District for Rate Adjustment Pursuant to 807 KAR 5:0076*, filed March 26, 2024.

This is to certify that the electronic filing has been transmitted to the Commission on April 9, 2024, and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be made. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Brittany Hayes Koenig

Counsel for Morgan County Water District

Enclosure :KRS 74.020

Baldwin's Kentucky Revised Statutes Annotated
Title IX. Counties, Cities, and Other Local Units
Chapter 74. Water Districts (Refs & Annos)
Water Districts

KRS § 74.020

74.020 Appointment of commissioners; number; terms; removal; vacancies; organization;
bond; compensation; mandatory training; notice of vacancy

Effective: March 18, 2021

Currentness

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:

(a) 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 be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be 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. Initial appointments shall be for terms of two (2), three (3), and four (4) years, as designated by the court;

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in one (1) or more adjacent counties, as provided by [KRS 74.115](#), the board of commissioners shall be appointed by the appropriate county judges/executive, with the approval of the respective fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the respective fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner; and

(c) If a district acquires an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into one (1) or more additional counties, or if a district extends its area to include territory in one (1) or more adjacent counties as provided by [KRS 74.115](#), it may operate the distribution system so acquired, or extended, without adding additional board members, if the new area to be served shall be deemed to be a minor portion of the total area served by the district, and if the fiscal court of the county containing the minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within any particular county included in the territorial boundaries of the district, it shall be conclusively presumed, with respect to that particular county, that the district comes within the terms of this subsection.

(2) A commissioner may be removed from office as provided by [KRS 65.007](#) or [74.025](#).

(3) A commissioner who participates in any official action by the water district board of commissioners which results in a direct financial benefit to him or her may be removed from office as provided by [KRS 65.007](#) or [74.025](#).

(4) Vacancies shall be filled by the same appointing 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. Notwithstanding [KRS 67.710](#), a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent shall be filled by the Public Service Commission if, within ninety (90) days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

(5) The commission shall elect a chairman, vice chairman, secretary, treasurer, and any other officers and assistant officers as the commission may deem necessary, each of whom shall be members of the commission. Any two (2) or more offices may be held by the same person, except that the chairman may not hold any other office. Each commissioner shall execute a bond for the faithful performance of the duties of his or her position.

(6) 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, and subject to subsection (9) of this section, 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 subsection (1)(c) 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 the district and its ability to meet its obligations as they mature.

(7) (a) Except as provided in subsection (9) of this section, 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. The training shall be approved and paid for by the water district of the county the commissioner represents. Those commissioners not required to complete the six (6) instructional hours shall be reimbursed for the cost of instruction if they choose to complete the water district training.

(b) The Public Service Commission shall be responsible for the regulation of all water district management training programs for commissioners of water districts, combined water, gas, or sewer districts, or water commissions.

(c) The Public Service Commission shall encourage and promote the offering of high quality water district management training programs that enhance a water district commissioner's understanding of his or her responsibilities and duties. The

commission shall, no later than January 1, 1999, establish standards and procedures to evaluate, accredit, and approve water district management training programs.

(8) (a) At least once annually, the Public Service Commission shall provide or cause to be conducted a program of instruction, consisting of at least twelve (12) hours of instruction, that is intended to train newly appointed commissioners in the laws governing the management and operation of water districts and other subjects that the Public Service Commission deems appropriate. The commission may charge a reasonable registration fee to recover the cost of the programs and may accredit programs of instruction that are conducted by other persons or entities and that the commission deems equivalent to its program of instruction.

(b) Within twelve (12) months of his or her initial appointment, each commissioner shall complete the program of instruction described in paragraph (a) of this subsection. Except as provided in subsection (9) of this section, any commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office. A commissioner required to attend a program under this subsection shall be reimbursed for the cost of instruction by his or her water district.

(9) The Public Service Commission may grant a reasonable extension of time, not to exceed six (6) months, for completing the training requirements of subsections (6), (7), and (8) of this section for good cause shown.

(10) (a) Within thirty (30) days of the occurrence of a vacancy on its board of commissioners resulting from the expiration of a term or the death, resignation, or removal of the incumbent, a water district shall notify in writing the Public Service Commission of the existence of the vacancy. The notice shall include the name of the commissioner who last held the position and the date on which the unexpired term will end.

(b) Within thirty (30) days of the appointment of a commissioner and the appropriate fiscal court's approval of that appointment, a water district shall notify the Public Service Commission of the appointment. The notice shall include the appointed person's name and the date of the expiration of his or her term.

(11) The Public Service Commission may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.

Credits

HISTORY: 2021 c 43, § 1, eff. 3-18-21; 2010 c 18, § 1, eff. 7-15-10; 2008 c 6, § 3, eff. 7-15-08; 1998 c 76, § 1, eff. 7-15-98; 1996 c 236, § 1, eff. 4-4-96; 1994 c 298, § 1, eff. 7-15-94; 1992 c 310, § 1, c 388, § 3, eff. 7-14-92; 1984 c 307, § 1, eff. 7-13-84; 1982 c 330, § 9, eff. 7-15-82; 1980 c 18, § 4, eff. 7-15-80; 1978 c 384, § 181, eff. 6-17-78; 1976 1st ex s, c 20, § 6; 1976 c 257, § 1; 1974 c 309, § 1; 1970 c 218, § 1; 1966 c 170, § 1, c 255, § 88; 1962 c 218, § 1; 1958 c 174, § 1; 1952 c 12, § 1; 1942 c 208, § 1, eff. 10-1-42; KS 938g-2, 938g-4

LRC NOTES

Legislative Research Commission Note (6-5-14): The Reviser of Statutes renumbered [KRS 74.455](#) and [KRS 74.025](#) on this date to provide a more appropriate location for that statute within KRS Chapter 74. A reference to [KRS 74.455](#) in this statute was also changed to [KRS 74.025](#) to conform.

[Notes of Decisions \(12\)](#)

KRS § 74.020, KY ST § 74.020

Current through laws effective April 2, 2024 and the Nov. 7, 2023 election. Some sections may be more current, see credits for details.

End of Document

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