



Shared Water and Sewer Services Relevant Ohio Revised Code Sections & Contractual Arrangements

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The information contained in this presentation should not be considered legal advice. Please consult your legal counsel to ensure compliance with the law.



What Does Shared Services Mean?

1. Creation of new regional district.
2. Contractual/Statutory takeover/combination of existing political subdivisions or NFP/FP water companies.
3. Contractual performance of specific services.



1. What is a Regional Water, Sewer or Stormwater District?

A Regional Water, Sewer or Stormwater District is an independent political subdivision of the State of Ohio established under Ohio Revised Code Chapter 6119 to provide water, sewer and/or storm water services to users of the District.



Who Can Establish a Regional District?

Any political subdivision or combination of political subdivisions of the State of Ohio, including one or more Townships, Counties, Villages, and Cities can form such a District.



How is a Regional Water, Sewer and/or Stormwater District Established?

- ✓ A legal analysis and preliminary feasibility study is prepared to determine the feasibility of establishing the District.
- ✓ The entity(ies) adopts a resolution approving and authorizing the filing of a Petition in the County Court of Common Pleas.



How is a Regional Water, Sewer and/or Stormwater District Established?

- ✓ Notice provided to all electors residing in territory of proposed District of a public meeting to receive comments on the proposed establishment of the District. Meeting held, preliminary study of reason for establishment of District presented.
- ✓ The Petition and other documents are filed in the Court of Common Pleas. Multi county district has 1 judge/county.
- ✓ The Plan of Operation is prepared.



How is a Regional Water, Sewer and/or Stormwater District Established?

- ✓ Legal counsel prepares evidence to show that:
 - ✓ the establishment of the proposed district is necessary,
 - ✓ the district & the plan for the operation of the district are conducive to the public health, safety, convenience, and welfare, and
 - ✓ the plan for the operation of the district is economical, feasible, fair, and reasonable.



How is a Regional Water, Sewer and/or Stormwater District Established?

- ✓ Legal counsel prepares briefs and supplemental briefs as necessary; legal counsel prepares witnesses for the hearing on establishment of the District.
- ✓ The Court establishes the District.



Powers and Duties of District Board of Trustees Upon Formation

A Board of Trustees is appointed to govern the District. The Board has extensive powers, such as power to acquire systems, build systems and lines, pass rules and regulations governing the utilization of resources within the District, buy and sell services, borrow, bonds, and set rates.



Powers and Duties of District Board of Trustees Upon Formation

Basically, the Board may do all things necessary and proper to carry out plans for providing water, sewer and/or stormwater services to District residents.

The District is not regulated by PUCO.



Advantages of Regional District

- ✓ May include parts or all of one or more jurisdictions.
- ✓ Territory may be in more than 1 county
- ✓ Territory/Purpose easily added later
- ✓ Board representation; may be amended
- ✓ Focused purpose; reduces political influence
- ✓ Eligible for gov't loan/grant programs
- ✓ Special assessment authority



Amendments

An existing district may also petition the court to:

- (A) Increase or add to its purposes, per 6119.01, or
- (B) Abandon or surrender any purpose, or
- (C) Amend any provision of the petition.

The court must grant the change if it determines that the change is conducive to the health, safety, convenience, or welfare, and that the change will not adversely affect the operations of the district.



2. Contractual/Statutory takeover/combination

- Muni to district
- Muni to county
- County to district
- County to muni
- District to District
- District to muni
- District to county
- Muni to Muni
- Muni to NFP Co.
- Muni to FP Co.
- County to NFP Co.
- County to FP Co.
- District to NFP Co.
- District to FP Co.



Expanding Existing District

- A municipality, township, or county may file an application with an existing district to have all or part of its territory included within the district.
- Territory included in expanded district but facilities must be transferred



Contractual Arrangements County to City Example

1. Negotiate Facilities Transfer Agreement

- Agreement requires the identification and inventory of the following items being transferred: (not all items listed below apply to every transaction)

1.1. Inventory of Facilities

- Inventory all Water Distribution and Sanitary Sewer Collection Systems, including all appurtenant related facilities such as Pump Stations, Lift Stations, etc.

1.2. Real Property Interests

- Inventory all property owned in fee simple, easements, rights of way, license agreements, lease agreements, railroad crossing agreements, and any other agreements related to real property.



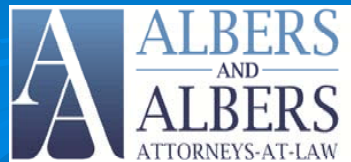
Contractual Arrangements (Cont.)

1.3. Equipment Machinery and Vehicle Interests

- Inventory all title equipment, vehicles and machinery as well as all other equipment, machinery, vehicles, office equipment, and any other personal property items.
- Inventory all warranties, maintenance agreements, service agreements related to the titled and untitled property.

1.4. Fiscal and Administrative Records

- Inventory all documents related to the ownership, operation, maintenance, improvement, administration, and management of water and sewer facilities. Include all tap agreements, user agreements, permits, contracts with customers and providers, invoices, bills of sale, fiscal records, warranties, promissory notes, debtor and creditor lists, regulatory agency reports, operating permits and licenses, original construction documents, and any other related documents.



Contractual Arrangements (Cont.)

1.5. Debt

- Inventory all outstanding loans and debts owed to financial institutions or other entities related to facilities.
- Include all debts and encumbrances of any kind.
- Obtain bond counsel, if necessary, to accomplish transfer of debt.

1.6. Employees

- Prepare a list of employees to be transferred (if any).
- Include employment status, employment contract, personnel file, status as a union member, and union contract (if applicable)
- Unions?



Contractual Arrangements (Cont.)

1.7. Monetary Transfer (if any)

- Inventory any monetary funds, accounts, or other monetary assets to be transferred.

1.8. Conclude Facilities Transfer Agreement

- Upon completion of inventories, parties should conclude negotiation of the Facilities Transfer Agreement.



Contractual Arrangements (Cont.)

2. Public Meeting (Optional)

- Parties may wish to hold a special public meeting once negotiations have been concluded.
- Public notice of meeting would be issued to all affected persons.
- Elected officials, attorney, and engineering consultant will prepare meeting agenda and present regarding the reasons for transfer and how it will affect customers.

3. Adopt Resolution Approving Facilities Transfer Agreement

- Resolution prepared and adopted .

4. Adopt Ordinance Approving Facilities Transfer Agreement

- Ordinance prepared and adopted.



Example of Contract Questions & Considerations

(This will vary depending on your situation)

1. Does 6119 or county district exist?
2. Sewer master meter or only a water master meter?
3. Employee, retirement, union issues?
4. Charter/petition restrictions?
5. Debt status, bond restrictions, early payoff options, assignability?
6. Maintenance?
7. Billing?



Water & Sewer Contract Questions & Considerations (Cont.)

8. Water and sewer or just one or the other?
9. Individual water meter readings or flat fees (if have sewer but not water)?
10. Surcharge?
11. Limits on outside rate increase?
12. Tap fees?
13. Outside/inside base fees the same?



Example of Contract Questions & Considerations (Cont.)

- 14. Annexation requirements?
- 15. Allotted capacity for water or sewer?
- 16. Treatment facility expansion (if any), and who caused?
- 17. Term of contract? Renewals?



Example of Contract Questions & Considerations (Cont.)

18. Rate increases.
19. Clarify ownership of lines and meters.
20. Treatment meets/exceeds EPA and other governmental requirements.
21. Compatible regulations/specs/equipment.
22. Correcting interruptions in service.



Example of Contract Questions & Considerations (Cont.)

- 23. Exclusivity?
- 24. Permissible termination
- 25. No third party beneficiaries.
- 26. No connections permitted without permits.



3. Contracts for specific services

R.C. 9.482 (B) (1) When legally authorized to do so, a political subdivision may enter into an agreement with another political subdivision or a state agency whereby the contracting political subdivision or state agency agrees to exercise any power, perform any function, or render any service for the contracting recipient political subdivision that the contracting recipient political subdivision is otherwise legally authorized to exercise, perform, or render.



6119.06 (G), Acquire,..., lease or rent to or from, or contract for operation by or for, a political subdivision or person.

6119.06 (O), Make and enter into all contracts and agreements; performance of its duties



- 6119.09 Any political subdivision or combination thereof may cooperate with the district in the acquisition or construction of a water resource project.
- 6119.41 contracts or other arrangements for co-operation or assistance in planning, constructing, maintaining, using, and operating the works of the district, or in minimizing or preventing damage to its properties, works, and improvements, or for making surveys, investigations, or reports thereon.



Questions?

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