

§ 6117.02. Fixing of rates and charges; use of funds.

(A) The board of county commissioners shall fix reasonable rates, including penalties for late payments, for the use, or the availability for use, of the sanitary facilities of a sewer district to be paid by every person and public agency whose premises are served, or capable of being served, by a connection directly or indirectly to those facilities when those facilities are owned or operated by the county and may change the rates from time to time as it considers advisable. When the sanitary facilities to be used by the county are owned by another public agency or person, the schedule of rates to be charged by the public agency or person for the use of the facilities by the county, or the formula or other procedure for their determination, shall be approved by the board at the time it enters into a contract for that use.

(B) The board also shall establish reasonable charges to be collected for the privilege of connecting to the sanitary facilities of the district, with the requirement that, prior to the connection, the charges shall be paid in full, or, if determined by the board to be equitable in a resolution relating to the payment of the charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. No public agency or person shall be permitted to connect to those facilities until the charges have been paid in full or provision for their payment in installments has been made. If the connection charges are to be paid in installments, the board shall certify to the county auditor information sufficient to identify each parcel of property served by a connection and, with respect to each parcel, the total of the charges to be paid in installments, the amount of each installment, and the total number of installments to be paid. The auditor shall record and maintain the information supplied in the sewer improvement record provided for in section 6117.33 of the Revised Code until the connection charges are paid in full. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the use of sanitary facilities.

(C) When any of the sanitary rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

(1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property served by the connection. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid sanitary rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.

(2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;

(3) Terminate, in accordance with established rules, the sanitary service to the particular property and, if so determined, any county water service to that property, unless and until the unpaid sanitary rates or charges, together with any penalties, are paid in full;

(4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of sanitary rates and charges for service to the particular property.

All moneys collected as sanitary rates, charges, or penalties fixed or established in accordance with divisions (A) and (B) of this section for any sewer district shall be paid to the county treasurer and kept in a separate and distinct sanitary fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the sanitary fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the sanitary facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of sanitary facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for sanitary purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of sanitary facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the sanitary fund shall not be expended other than for the use and benefit of the district.

(D) The board may fix reasonable rates and charges, including connection charges and penalties for late payments, to be paid by any person or public agency owning or having possession or control of any properties that are connected with, capable of being served by, or otherwise served directly or indirectly by, drainage facilities owned or operated by or under the jurisdiction of the county, including, but not limited to, properties requiring, or lying within an area of the district requiring, in the judgment of the board, the collection, control, or abatement of waters originating or accumulating in, or flowing in, into, or through, the district, and may change those rates and charges from time to time as it considers advisable. In addition, the board may fix the rates and charges in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122.

The rates and charges shall be payable periodically as determined by the board, except that any connection charges shall be paid in full in one payment, or, if determined by the board to be equitable in a resolution relating to the payment of those charges, provision considered adequate by the board shall be made for their payment in installments at the times, in the amounts, and with the security, carrying charges, and penalties as may be found by the board in that resolution to be fair and appropriate. The board may include amounts attributable to connection charges being paid in installments in its billings of rates and charges for the services provided by the drainage facilities. In the case of rates and charges that are fixed in order to pay the costs of complying with the requirements of phase II of the storm water program of the national pollutant discharge elimination system established in 40 C.F.R. part 122,

the rates and charges may be paid annually or semiannually with real property taxes, provided that the board certifies to the county auditor information that is sufficient for the auditor to identify each parcel of property for which a rate or charge is levied and the amount of the rate or charge.

When any of the drainage rates or charges are not paid when due, the board may do any or all of the following as it considers appropriate:

- (1) Certify the unpaid rates or charges, together with any penalties, to the county auditor, who shall place them upon the real property tax list and duplicate against the property to which the rates or charges apply. The certified amount shall be a lien on the property from the date placed on the real property tax list and duplicate and shall be collected in the same manner as taxes, except that notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in that amount when separately tendered as payment for the full amount of the unpaid drainage rates or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount.
- (2) Collect the unpaid rates or charges, together with any penalties, by actions at law in the name of the county from an owner, tenant, or other person or public agency that is liable for the payment of the rates or charges;
- (3) Terminate, in accordance with established rules, the drainage service for the particular property until the unpaid rates or charges, together with any penalties, are paid in full;
- (4) Apply, to the extent required, any security deposit made in accordance with established rules to the payment of drainage rates and charges applicable to the particular property.

All moneys collected as drainage rates, charges, or penalties in or for any sewer district shall be paid to the county treasurer and kept in a separate and distinct drainage fund established by the board to the credit of the district. Except as otherwise provided in any proceedings authorizing or providing for the security for and payment of any public obligations, or in any indenture or trust or other agreement securing public obligations, moneys in the drainage fund shall be applied first to the payment of the cost of the management, maintenance, and operation of the drainage facilities of, or used or operated for, the district, which cost may include the county's share of management, maintenance, and operation costs under cooperative contracts for the acquisition, construction, or use of drainage facilities and, in accordance with a cost allocation plan adopted under division (E) of this section, payment of all allowable direct and indirect costs of the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, incurred for drainage purposes under this chapter, and shall be applied second to the payment of debt charges payable on any outstanding public obligations issued or incurred for the acquisition or construction of drainage facilities for or serving the district, or for the funding of a bond retirement or other fund established for the payment of or security for the obligations. Any surplus remaining may be applied to the acquisition or construction of those facilities or for the payment of contributions to be made, or costs incurred, for the acquisition or construction of those facilities under cooperative contracts. Moneys in the drainage fund shall not be expended other than for the use and benefit of the district.

(E) A board of county commissioners may adopt a cost allocation plan that identifies, accumulates, and distributes allowable direct and indirect costs that may be paid from each of the funds of the

district created pursuant to divisions (C) and (D) of this section, and that prescribes methods for allocating those costs. The plan shall authorize payment from each of those funds of only those costs incurred by the district, the county sanitary engineer or sanitary engineering department, or a federal or state grant program, and those costs incurred by the general and other funds of the county for a common or joint purpose, that are necessary and reasonable for the proper and efficient administration of the district under this chapter and properly attributable to the particular fund of the district. The plan shall not authorize payment from either of the funds of any general government expense required to carry out the overall governmental responsibilities of a county. The plan shall conform to United States office of management and budget Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," published May 17, 1995.

HISTORY: GC § 6602-1; 107 v 440; 108 v PtI, 369; 110 v 392; 112 v 275; 123 v 441; Bureau of Code Revision, 10-1-53; 127 v 622; 127 v PtII, 10 (Eff 7-1-58); 135 v H 461 (Eff 10-31-73); 141 v H 243 (Eff 2-25-87); 148 v H 549. Eff 3-12-2001; 150 v H 95, § 1, eff. 9-26-03.

The effective date is set by section 179 of H.B. 95 (150 v -).

See provisions, §§ 3, 4 of HB 549 (148 v -) following RC § 6103.40.

Effect of Amendments

H.B. 95, Acts 2003, effective September 26, 2003, added the last sentence to the first and second paragraphs in (D).