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NAME GIVEN TO SOIL CONSERVATION DISTRICT BY THE OHIO SOIL CONSERVATION COMMITTEE MAY NOT LATER BE CHANGED BY THE COMMITTEE OR DISTRICT. § 1515.04, R.C.

SYLLABUS:

The name given to a soil conservation district by the Ohio soil conservation committee, on organization of the district, pursuant to Section 1515.04, Revised Code, may not later be changed by the committee or the district.

Columbus, Ohio, December 11, 1961

Hon. F. E. Heft, Executive Secretary  
Ohio Soil Conservation Committee  
Ohio State University, Columbus 10, Ohio

Dear Sir:

I have your request for my opinion which reads as follows:

“Many soil conservation districts have requested permission procedure for the change of their names to Soil and Water Conservation Districts. Specifically, the Clark County Soil Conservation District wishes to change its name to the ‘Clark Soil and Water Conservation District.’

“The Ohio Soil Conservation Committee requests that a formal opinion be rendered upon the following:

“1. Does the Ohio Soil Conservation Committee have the power to establish a procedure by which the originally recorded name of a local soil conservation district can be changed?

“2. Should your opinion to the above question be in the affirmative—would the addition of the word ‘water’ within the name as proposed by the Clark District disassociate it with the statutes setting forth procedures for the organization and operation of a local soil conservation district? (Chapter 1515.01-1515.14 of the Revised Code.)

“Many places within the language of the statutes governing soil conservation districts, references are made to water management and conservation. Soil conservation districts in their broad interpretation have considered water conservation an inseparable part of soil conservation.”

Your inquiry, while directed to the adoption of rule procedures by the Ohio soil conservation committee, necessarily includes the supervisors of a soil conservation district, and will be considered from both aspects.

The procedure for establishment of a soil conservation district, as a “district of this state,” and the role of the Ohio soil conservation committee, “an agency of this state,” is specifically prescribed by statute. The provisions for establishment *or* dissolution must be followed as a mandate from the General Assembly. Referring to action taken by the Ohio soil conservation committee, Section 1515.04, Revised Code, reads, in part, as follows:

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“\* \* \* If the committee determines that the operation of such district is practicable and feasible, it shall record such determination, shall declare the district organized, and shall give it a *district name by which it shall thereafter be known in all proceedings*, and thereupon the district shall constitute a district of this state.” (Emphasis added)

You will note from the emphasized portion that the General Assembly, by the use of the mandatory language “shall,” has effectively imposed the requirement that the name of a district, once acquired, is to continue in all future proceedings. This feature is emphasized by the further fact that Section 1515.06, Revised Code, provides for the filing of the decree of incorporation with the secretary of state “in the same manner as articles of incorporation are required to be filed and recorded under the general law concerning corporations,” and Section 1515.12, Revised Code, contemplates the filing of a certificate of dissolution, but no provision is made for amendment. In my opinion, lack of such a provision, when read in the light of the specific provisions of Section 1515.04, Revised Code, as cited, precludes such a change of name by rules of the soil conservation district or the Ohio soil conservation committee.

Accordingly, the power of the supervisors “to make, amend, and repeal rules” under Section 1515.08, division (F), Revised Code, and the powers of the Ohio soil conservation committee under Sections 1515.02 and 1515.04, Revised Code, do not include the right to vary the specific limitation imposed by the General Assembly; although a possible alternative might be formal dissolution of the district under Section 1515.12, Revised Code, and reorganization under the new name in the manner of original organization.

Answering your specific question, therefore, it is my opinion and you are advised that the name given to a soil conservation district by the Ohio soil conservation committee, on organization of the district, pursuant to Section 1515.04, Revised Code, may not later be changed by the committee or the district.

Respectfully,  
MARK McELROY  
Attorney General