

IC 36-11-3

Chapter 3. Establishment or Dissolution of Districts

IC 36-11-3-1

Initiation by governing body

Sec. 1. (a) The establishment of a district may be initiated only by the governing body.

(b) The dissolution of a district may be initiated only by the governing body.

(c) A notice of intent to establish or dissolve a district must be filed in:

(1) the office of the executive of each governmental entity having territory within the proposed district or the district proposed for dissolution;

(2) the department of environmental management; and

(3) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-2

Contents of notice of intent

Sec. 2. A notice of intent to establish a district under this chapter must state the following:

(1) The proposed name of the district.

(2) The place in which the district's principal office is to be located.

(3) The following information:

(A) The need for the proposed district.

(B) The purpose to be accomplished.

(C) How the district will be conducive to the public health, safety, convenience, or welfare.

(4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions.

(5) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from its operations.

(6) Estimates of the following:

(A) The costs of accomplishing the purpose of the district.

(B) The sources of the funding of those costs.

(C) The rates and charges that will be required.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-3

Notice of intent to dissolve

Sec. 3. A notice of intent to dissolve a district under this chapter must state the reasons why the district is not needed.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-4

Territory of district

Sec. 4. The district may include area that is not contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment of the area described as a single district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-5

Inclusion in district of area located within a municipality

Sec. 5. (a) Except as provided in subsection (b), the description of the area to be included in a district may not include a municipality.

(b) The description of the area to be included in a district may include area located within a municipality if the municipal legislative body has adopted an ordinance or resolution designating that area to be included in the district.

(c) The governing body shall:

(1) identify any area located within a municipality in the county that the governing body believes should be part of the area of the district; and

(2) request that the municipality adopt an ordinance or resolution under subsection (b) to include the area identified under subdivision (1) in the district.

(d) A municipal legislative body that has previously adopted an ordinance or resolution under subsection (b) may adopt an ordinance or resolution to exclude from the district all or part of the area previously designated for inclusion in the district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-6

Public hearings; qualifications of hearing officer; hearing officer compensation

Sec. 6. Upon the filing of a notice of intent to establish or dissolve a district under this chapter, the governing body shall appoint a hearing officer to preside over public hearings concerning the establishment or dissolution of a district. The hearing officer does not have to be a state or county employee and may not be a member of the county legislative body. If the hearing officer is not a full-time state or county employee, the hearing officer is entitled to be paid reasonable:

(1) expenses; and

(2) per diem;

for each day or part of a day in actual attendance at a meeting or hearing or in performance of duties.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-7

Scheduling of hearing; notice

Sec. 7. (a) The hearing officer shall fix a date, time, and place inside or within ten (10) miles of the proposed district for the hearing on any matter for which a hearing is authorized under this chapter.

(b) The hearing officer shall provide notice of the hearing:

- (1) under IC 5-3-1; and
- (2) by certified mail, return receipt requested, mailed at least two (2) weeks before the hearing to:
 - (A) the department of environmental management; and
 - (B) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-8

Objection and participation in hearing by resident of district

Sec. 8. A person that resides in or partially resides in an area affected by the proposed establishment or dissolution of a district:

- (1) may, on or before the date set for the hearing, file a written objection to the proposed establishment or dissolution of the district; and
- (2) may be heard at the hearing.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-9

Findings and recommendations of hearing officer; matters to be considered by the hearing officer

Sec. 9. (a) After the hearing on the proposed establishment or dissolution of the district, which may be adjourned periodically, the hearing officer shall make findings and recommendations as to whether:

- (1) the establishment of the district should be:
 - (A) approved;
 - (B) approved with modifications; or
 - (C) denied; or
- (2) the dissolution of the district should be:
 - (A) approved; or
 - (B) denied.

(b) The hearing officer shall consider, at a minimum, the following in making findings and recommendations concerning the establishment of a proposed district:

- (1) Whether the proposed district complies with the conditions of this chapter for establishment of a district.
- (2) Whether the proposed district appears capable of accomplishing its purpose or purposes in an economically feasible manner.

(c) The hearing officer shall consider, at a minimum, whether the district is needed in making findings and recommendations concerning the proposed dissolution of a district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-10

Action by ordinance of the governing body after the hearing; notice to objectors

Sec. 10. Following a hearing under this chapter, if the governing body determines that the findings of the hearing officer show that:

- (1) the proposed district appears capable of accomplishing the

purpose or purposes of the district in an economically feasible manner, a district may be established; or

(2) there is no need for the district, the district may be dissolved;

by adoption of an ordinance by the governing body. The governing body shall give notice by mail of the adoption of an ordinance to establish a district to each person who filed a written objection under section 8 of this chapter.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-11

Notice of adoption of an ordinance

Sec. 11. The district shall provide notice of the adoption of an ordinance under section 10 of this chapter to:

- (1) local health departments;
- (2) the department of environmental management;
- (3) the department of natural resources; and
- (4) the state department of health.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-12

District not an independent municipal corporation

Sec. 12. A district established under this chapter is not an independent municipal corporation.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-13

Information to be included in ordinance to establish a district

Sec. 13. An ordinance adopted under section 10 of this chapter to establish a district must state the following:

- (1) The name of the district.
- (2) The need for the district.
- (3) The purpose to be accomplished by the district.
- (4) An accurate description of the territory included in the district, which does not have to be given by metes and bounds or by legal subdivisions.
- (5) Estimates of the costs of the operations of the district.
- (6) The plan for financing the cost of the operations of the district by the county or counties in which the district is located.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.

IC 36-11-3-14

Petition to county legislative body objecting to establishment of district; hearing; notice of action on objection

Sec. 14. (a) If the governing body adopts an ordinance under section 10 of this chapter to establish a district, a person who filed a written objection under section 8 of this chapter against the establishment of the district may file an objecting petition in the office of the county auditor. The petition must be filed not more than thirty (30) days after the date the notice of the adoption of the

ordinance is mailed to the person under section 8 of this chapter. The petition must state the person's objections and the reasons why the person believes the establishment of the district is unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the county legislative body. Upon receipt of the certified petition and other data, the county legislative body shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) days and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) The county legislative body shall give notice of the hearing to the petitioner and the governing body by mail at least five (5) days before the date of the hearing. After the hearing, the county legislative body shall approve or deny the establishment of the district. The decision by the county legislative body:

- (1) is final with respect to the establishment of the district against which the objecting petition was filed; and
- (2) does not limit the authority of the governing body to initiate new proceedings to establish a district.

As added by P.L.161-2002, SEC.2 and P.L.172-2002, SEC.7.