

IC 14-27-8

Chapter 8. Drainage Districts

IC 14-27-8-1

Applicability of chapter

Sec. 1. This chapter applies if a public ditch or drain is established and constructed under the order of any of the following:

- (1) A circuit or superior court.
- (2) A county executive.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-2

"District" defined

Sec. 2. As used in this chapter, "district" refers to a drainage maintenance and repair district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-3

"Ditch" or "drain" defined

Sec. 3. As used in this chapter, "ditch" or "drain" includes the following:

- (1) A main dredge ditch.
- (2) The lateral ditches:
 - (A) tributary to a main ditch; and
 - (B) constructed as one (1) system of drainage by the use of a dredge machine.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-4

Petition to establish district; filing

Sec. 4. (a) A petition requesting the establishment of a drainage maintenance and repair district under this chapter may not be filed after June 30, 2001.

(b) Twenty percent (20%) of the owners of the real property assessed for a ditch or drain who:

- (1) would benefit by the construction of the ditch or drain; and
- (2) own not less than twenty percent (20%) of the land in acreage that is assessed for the ditch or drain;

may file, in the office of the clerk of a circuit or superior court having jurisdiction in the county in which is located the greatest acreage of the land as last assessed with benefits for the construction or reconstruction of the ditch, a petition requesting the establishment of a drainage maintenance and repair district.

As added by P.L.1-1995, SEC.20. Amended by P.L.276-2001, SEC.4.

IC 14-27-8-5

Petition to establish district; contents

Sec. 5. A petition filed under section 4 of this chapter must do the following:

- (1) Describe all the land assessed with benefits for the

construction or reconstruction of the ditch or drain.

(2) State a general description of the ditch or drain that the district is proposed to keep in repair and to properly maintain.

(3) State that the maintenance and repair of the ditch or drain is a work of necessity or public utility and can be best accomplished by the organization of the district.

(4) Include other facts that are important.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-6

Petition to establish district; signature

Sec. 6. If the proposed district includes a city, town, or part of a city or town, the legislative body of the city or town may, after determining whether the city or town and the owners of land located in the city or town that would be included in the proposed district would benefit by the district, sign the petition. If a petition is signed by the legislative body, the petition shall be treated as if the petition were signed by all owners of land located in the city or town in the proposed district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-7

Petition to establish district; hearing

Sec. 7. (a) Upon the filing of a petition described in section 4 of this chapter, the clerk of the court shall do the following:

(1) Fix by endorsement upon the petition a day in the next term of the court, not less than twenty (20) days later than the date of the filing of the petition, for the hearing.

(2) Give notice of the filing and hearing at least ten (10) days before the day fixed for the hearing as follows:

(A) By summons, which shall be served by United States mail, return receipt requested.

(B) For owners of land in the city or town, by reading to the legislative body of the city or town or a majority of the members.

(C) By posting notice in five (5) of the most public places within the proposed district.

(D) By posting one (1) notice at the door of the courthouse in the county in which the petition is filed.

(E) For nonresidents of Indiana, by publication one (1) time in a newspaper of general circulation in the county.

(b) When notified under subsection (a), the legislative body shall make every reasonable effort to see that landowners in the city or town included in the proposed district are informed of the proposed district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-8

Petition to establish district; notice of hearing to resident landowners

Sec. 8. Notice given under section 7 of this chapter must state the following:

- (1) The date of the filing.
- (2) The time and place of the hearing.
- (3) The fact that the petition requests the establishment of a district.
- (4) The name and a general description of the dredge ditch or drain for which it is proposed to establish the district.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-9

Petition to establish district; notice of hearing to nonresident landowners

Sec. 9. (a) If a landowner in the proposed district is not a resident of one (1) of the counties in which the proposed district will lie, the petitioners shall file in the clerk's office with the petition an affidavit that does the following:

- (1) Gives the name of every nonresident landowner.
- (2) States the landowner's post office address if known.
- (3) If the landowner's post office address is not known, states that diligent inquiry has been made to ascertain the address but has not been able to do so.

(b) The clerk shall mail a copy of the notice to every nonresident landowner whose post office address is stated in the affidavit not later than the day on which publication of the notice is made.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-10

Petition to establish district; court proceedings

Sec. 10. (a) Upon the hearing of a petition filed under section 4 of this chapter, an owner of real property within the proposed district may appear and contest the necessity for or utility of the establishment of the district.

(b) The court shall determine the following:

- (1) Whether the petition is signed by twenty percent (20%) of the landowners in the proposed district.
- (2) Whether the landowners represent at least twenty percent (20%) of the land in acreage included in the proposed district.

(c) If the court after hearing the evidence finds that a petition has not been signed as required by this chapter, the court shall dismiss the petition at the cost of the petitioners.

(d) If the court finds that:

- (1) a petition has been signed by twenty percent (20%) of the owners of land within the proposed district; and
- (2) the signers own at least twenty percent (20%) of the land in acreage;

the finding shall be entered of record and is conclusive upon all landowners owning land within the district who have been notified as required by this chapter.

(e) If it further appears to the court that:

(1) the establishment of the proposed district is necessary; or
(2) the district will be useful and a public utility;
the court shall adjudge the district established unless a remonstrance objecting to the establishment has been filed with the clerk of the court.

(f) A remonstrance filed under subsection (e) must contain the names of the following:

(1) Owners of at least two-thirds (2/3) of the acreage described within the proposed district.

(2) Owners of land abutting on at least fifty-one percent (51%) of the length of the ditch.

(g) The court shall give the district a distinguishing name.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-11

Drainage commissioners; appointment; qualifications

Sec. 11. (a) The board of commissioners of the county shall appoint three (3) drainage commissioners to do the following:

(1) Take charge of the maintenance and repair of the dredge ditch or drain within the district.

(2) Perform other duties assigned to the drainage commissioners under this chapter.

(b) A drainage commissioner must have the following qualifications:

(1) Own land in the district.

(2) Reside in the district.

(3) Be an individual of intelligence and good judgment.

(c) If the district is composed of land from more than one (1) county, the board of commissioners of each county may participate in the appointment of the drainage commissioners.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-12

Drainage commissioners; terms

Sec. 12. (a) The initial drainage commissioners serve for terms designated by the board of commissioners of the county as follows:

(1) One (1) drainage commissioner for one (1) year.

(2) One (1) drainage commissioner for two (2) years.

(3) One (1) drainage commissioner for three (3) years.

(b) Upon the expiration of the initial terms, the board of commissioners of the county shall appoint successors for terms of three (3) years.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-13

Drainage commissioners; oath

Sec. 13. Before entering upon the discharge of their duties, the drainage commissioners shall take and subscribe an oath to do the following:

(1) Faithfully and honestly discharge the duties of office without

favor or partiality.

(2) Give a true account of their work to the board of county commissioners whenever required to do so by law.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-14

Drainage commissioners; chairman; secretary

Sec. 14. The drainage commissioners:

(1) shall elect one (1) of the drainage commissioners chairman; and

(2) may elect one (1) of the drainage commissioners secretary.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-15

Drainage commissioners; quorum

Sec. 15. A majority of the drainage commissioners constitutes a quorum. A quorum is sufficient in any matter within their duties as drainage commissioners.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-16

Drainage commissioners; filling of vacancies; removal

Sec. 16. (a) Upon the death or removal from the county of a drainage commissioner, the board of commissioners of the county shall appoint a successor.

(b) A drainage commissioner is subject to removal for cause upon written charges filed against the drainage commissioner in the circuit court.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-17

Drainage commissioners; per diem compensation and traveling expenses

Sec. 17. (a) A drainage commissioner serves without salary, but is entitled to be paid from the drainage maintenance fund twenty-five dollars (\$25) per day, not to exceed five hundred dollars (\$500) annually, for every day the drainage commissioner is actively and necessarily employed in the following:

(1) Going over the district for the purpose of inspecting the land and ditch and drains in the district.

(2) Preparing the statement of the annual assessment contemplated.

(b) A drainage commissioner is also entitled to be paid for traveling expense while engaged in the performance of duties under this chapter an amount for mileage equal to that amount per mile paid to state officers and employees.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-18

Maintenance of ditches and drains; labor and materials

Sec. 18. (a) The drainage commissioners:

- (1) shall at all times keep and maintain the dredge ditch and drain in proper condition; and
- (2) may, subject to subsection (b), hire all labor, purchase all material, and do all acts that are necessary and incident to maintaining the ditch and drain.

(b) An obligation may not be made until the assessments are levied.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-19

Records of expenses; warrants

Sec. 19. (a) The drainage commissioners shall do the following:

- (1) Keep a complete record of their proceedings and note in the record all expenses incurred in the maintenance and repair of the ditch and drain.
- (2) File with the county auditor an itemized statement showing the costs and expenses of the maintenance, and specifying the amounts due and owing to each person.

(b) The county auditor shall draw a warrant on the county treasurer in favor of each person for the amount due the person. The amount shall be paid out of the drainage maintenance fund created by assessments levied on the land benefited by the maintenance and repair as provided in this chapter.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-20

Fixing of assessment rate

Sec. 20. To raise the drainage maintenance fund, the drainage commissioners shall meet annually to do the following:

- (1) Estimate the amount of money necessary to properly maintain the ditch and drain for the ensuing year.
- (2) Determine what percent that amount is of the total of the last assessments made and confirmed by the court in the last proceedings to construct or reconstruct the ditch and drain. The drainage commissioners shall by resolution fix that percent as the assessment rate for the ensuing year, subject to the following:
 - (A) The assessment rate may not be greater than fifty percent (50%) of the last assessment.
 - (B) If, in a year there is an unencumbered balance in the drainage maintenance fund equal to or greater than four (4) times the estimated annual cost of the drainage maintenance, the annual assessment shall be omitted for that year.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-21

Itemized statement of costs of petitioners

Sec. 21. The petitioners for the district shall present an itemized statement of all costs incurred by the petitioners in petitioning for the

establishment of the district. If the drainage commissioners find the statement to be true and the expenses to be reasonable, the drainage commissioners shall include the expenses in the first assessment and reimburse the petitioners immediately.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-22

Collection of assessments

Sec. 22. (a) The drainage commissioners shall, before November 1 of each year, file with the county auditor a certified copy of the resolution fixing the assessment rate.

(b) The county auditor shall do the following:

(1) Prepare an assessment duplicate assessing each tract of land with an amount determined by multiplying the last assessment on the tract of land made and confirmed by the court in the last proceedings to construct or reconstruct the ditch by the assessment rate.

(2) Deliver the assessment duplicate to the county treasurer at the same time the tax duplicates are delivered. However, if the amount to be collected is not greater than fifty cents (\$0.50), the county auditor may not deliver the assessment duplicate to the county treasurer to be collected.

(c) The county treasurer shall collect the assessments in the same ways as taxes are collected, except that the whole amount is due and payable and collected at the time of the payment of the spring installment of taxes. All laws concerning the collection of taxes apply to enforce the collection of assessments.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-23

Carryover of balance in drainage maintenance fund

Sec. 23. A balance remaining in the drainage maintenance fund at the end of a year shall be carried forward into the drainage maintenance fund for the ensuing year.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-24

Dissolution of district; authority

Sec. 24. A district established under this chapter or under IC 13-2-21 (before its repeal) may be dissolved by order of the court that established the district in accordance with:

(1) IC 36-9-27-27; or

(2) section 25 of this chapter.

As added by P.L.1-1995, SEC.20.

IC 14-27-8-25

Dissolution of district; petition

Sec. 25. (a) The court shall dissolve the district if it is shown that a petition for dissolution contains either of the following:

(1) The names of a majority of the drainage commissioners.

(2) The names of:

(A) the owners of at least two-thirds ($2/3$) of the acreage described within the district; and

(B) the owners of land abutting on at least fifty-one percent (51%) of the length of the ditch involved.

(b) A petition of dissolution may not be presented to the court until the district has been in existence for one (1) year.

(c) If the petition for dissolution is found by the court to be insufficient, the dissolution proceedings shall be dismissed at the cost of the petitioners for dissolution.

As added by P.L.1-1995, SEC.20.