

IC 13-26-2

Chapter 2. Establishment of Regional Districts

IC 13-26-2-1

Petitions to organize district

Sec. 1. The establishment of a regional district may be initiated only by a petition filed with the department. A copy of the petition shall also be filed not later than ten (10) days after the filing with the department in the office of the executive of each governmental entity having territory within the proposed district.

As added by P.L.1-1996, SEC.16. Amended by P.L.133-1997, SEC.1.

IC 13-26-2-2

Petitions; filing

Sec. 2. (a) The petition may be filed by any representative of one (1) or more eligible entities involved after being authorized by the fiscal body of the petitioning eligible entity or entities included in the plan of the proposed district.

(b) If the proposed district includes:

(1) a state park or recreational area, forest land, or a reservoir;
or

(2) land owned, leased, or controlled by the department of natural resources;

the petition may be joined or filed by any representative of that department after having been authorized by the natural resources commission, with the approval of the executive of the county containing the territory of the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.133-1997, SEC.2.

IC 13-26-2-2.5

Petitions; notice

Sec. 2.5. (a) Before a representative may file a petition to establish a district, the representative must provide notice to all owners of property to be served by the proposed district that is the subject of the petition.

(b) Notice under subsection (a) must be provided as follows:

(1) Beginning at least thirty (30) days before the date on which a public meeting under subsection (c) is scheduled, by publication of notice one (1) time each week for three (3) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the proposed district. If there is only one (1) newspaper of general circulation in a county, a single publication each week for three (3) consecutive weeks satisfies the requirement of this subdivision.

(2) Beginning at least fourteen (14) days before the date on which a public meeting under subsection (c) is scheduled, by:

(A) first class United States mail, postage prepaid, mailed to

each freeholder within the proposed district; and

(B) broadcasting at least three (3) public service announcements each day for fourteen (14) days on at least two (2) radio stations operating in each of the counties, in whole or in part, in the proposed district.

(c) After providing notice under subsection (b), a representative that seeks to file a petition to establish a district must conduct a public meeting to discuss and receive comments on the proposed district.

(d) A representative may not file a petition to establish a district:

(1) more than one hundred eighty (180) or less than sixty (60) days after providing notice under subsection (b); or

(2) less than thirty (30) days after a meeting held under subsection (c).

As added by P.L.97-2012, SEC.4. Amended by P.L.292-2013, SEC.4.

IC 13-26-2-3

Petitions; contents

Sec. 3. A petition 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, including a specific statement of how:

(i) water supply, for a water district;

(ii) sewage collection, disposal, and treatment, for a sewage district; or

(iii) solid waste disposal, recovery, or treatment, for a solid waste district;

is currently being provided.

(D) Whether there is any outstanding indebtedness for the purpose proposed in the proposed district, including a statement as to how the current situation creates or adds to pollution or health hazards or impedes development in the area.

(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. The territory does not have to be contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment as a single district of the territory described.

(5) The petitioner's recommendations on:

(A) the manner of selection;

(B) the number; and

- (C) the term, not exceeding four (4) years;
of the members of the board of trustees.
- (6) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from the district's operations or proceeds from the sale of bonds.
- (7) Estimates of the following:
 - (A) The costs of accomplishing the purpose of the district.
 - (B) The costs of operating and maintaining the works.
 - (C) The sources of the funding of these costs.
 - (D) The rates and charges that will be required.
 - (E) The median income for households in the proposed district based on the most recent federal decennial census.
- (8) A summary of alternatives to creating the district.

As added by P.L.1-1996, SEC.16. Amended by P.L.97-2012, SEC.5.

IC 13-26-2-3.5

Petition opposing establishment of proposed district

Sec. 3.5. Not more than one hundred eighty (180) days after the date a petition is filed with the department under section 1 of this chapter to establish a regional district, if another petition is filed with the department that is signed by a majority of the owners of property that would be served by the proposed district and indicating that the owners of the property are opposed to the establishment of the proposed district, the department shall declare that the petition filed under section 1 of this chapter to establish the regional district:

- (1) is void; and
- (2) is not a sufficient petition for purposes of section 5 of this chapter.

As added by P.L.292-2013, SEC.5.

IC 13-26-2-4

Petitions; determination of compliance

Sec. 4. Upon the filing of a petition to establish a district under this chapter, the department shall determine whether the petition complies with the requirements of this chapter as to form and content. The department:

- (1) may not declare a petition void because of alleged defects;
and
- (2) may, in subsequent proceedings at any time, permit the petition to be amended in form or substance.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-5

Petitions; hearing officer; appointment

Sec. 5. Upon the determination of the department that a sufficient petition has been filed in accordance with this chapter, the commissioner shall appoint a hearing officer, who does not have to be a state employee. If the hearing officer is not a full-time state 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. The reasonable per diem and expenses are valid claims against the department.
As added by P.L.1-1996, SEC.16.

IC 13-26-2-6

Notice and hearing

Sec. 6. (a) Except as provided in section 9 of this chapter, the hearing officer shall fix a 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 make a reasonable effort to provide notice of the hearing as follows:

(1) By publication of notice two (2) times each week for two (2) consecutive weeks in at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the district. The publication of notice must, at a minimum, include a legal notice and a prominently displayed three (3) inches by five (5) inches advertisement.

(2) By United States mail sent at least two (2) weeks before the hearing to the following:

(A) The fiscal and executive bodies of each county with territory in the proposed district.

(B) The executive of all other eligible entities with territory in the proposed district.

(C) The state and any of its agencies owning, controlling, or leasing land within the proposed district, excluding highways and public thoroughfares owned or controlled by the Indiana department of transportation.

(D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.

(3) By making a reasonable effort to provide notice of the hearing by regular United States mail, postage prepaid, mailed at least two (2) weeks before the hearing to each freeholder within the proposed district.

(4) By including the date on which the hearing is to be held and a brief description of:

(A) the subject of the petition, including a description of the general boundaries of the area to be included in the proposed district; and

(B) the locations where copies of the petition are available for viewing.

As added by P.L.1-1996, SEC.16. Amended by P.L.106-2000, SEC.1; P.L.1-2001, SEC.22; P.L.263-2013, SEC.7.

IC 13-26-2-7

Objection; opportunity to be heard

Sec. 7. A person or an eligible entity that resides or lies in or partially resides or lies in an area affected by the establishment of a district:

- (1) may, on or before the date set for the cause to be heard, file a written objection to the granting of the requests made in the petition; and
- (2) may be heard at the hearing.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-8**Findings and recommendations**

Sec. 8. (a) After the hearing on the petition for the establishment of the proposed district, which may be adjourned periodically, the hearing officer shall make findings on the petition and other relevant facts and recommendations as to whether:

- (1) the petition should be:
 - (A) approved;
 - (B) approved with modifications; or
 - (C) denied; and
- (2) a district should be established.

(b) If the recommendation is in the affirmative, the recommendation must also include recommendations on:

- (1) the manner of the selection or appointment;
- (2) the number; and
- (3) the terms;

of the board.

(c) The description of the territory to be included in a district may not include territory in a municipality that has, by ordinance or resolution filed with the department, exercised the option not to be included in the district.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-9**Waiver of notice and hearing requirement**

Sec. 9. (a) If the department of natural resources has filed a petition, the commissioner may waive the requirement for notice and hearing provided in section 6 of this chapter.

(b) If the commissioner waives the notice and hearing requirement, the hearing officer shall give written notice in the manner provided under section 6(b)(2) or 6(b)(3) of this chapter. Each recipient of notice has thirty (30) days from the mailing of the notice within which to file objections or material with the hearing officer.

(c) The hearing officer shall then proceed to make findings and recommendations as provided in section 8 of this chapter, based upon any material:

- (1) received by the hearing officer; or
- (2) obtained at the hearing officer's discretion through the

hearing officer's own investigation.
As added by P.L.1-1996, SEC.16. Amended by P.L.263-2013, SEC.8.

IC 13-26-2-10

Order

Sec. 10. (a) If the commissioner determines that the findings show that the establishment of a recommended district:

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

the commissioner shall issue an order directing that the district be established as an independent municipal corporation with a name and for the purposes designated in the order.

(b) An order must do the following:

- (1) Provide for the selection or appointment and terms of offices, not to exceed four (4) years, of the board.
- (2) Provide requirements for sufficient bond for all officers, trustees, or employees having power to dispense money of the district.
- (3) If an eligible entity with territory in the district has a public water or solid waste sewer system, contain provisions protecting the investments of the entities and protecting the rights of the holders of bonds or other obligations issued to provide money for the system.
- (4) Direct the district to file a detailed plan for the initial project of the district not later than nine (9) months after the date of the preliminary order or within a further time that the department from time to time orders.

As added by P.L.1-1996, SEC.16.

IC 13-26-2-11

Order; review

Sec. 11. An order for the establishment of a district is subject to review as provided in IC 4-21.5-5.

As added by P.L.1-1996, SEC.16.