

## **IC 14-33**

### **ARTICLE 33. CONSERVANCY DISTRICTS**

#### **IC 14-33-1**

##### **Chapter 1. Purposes**

#### **IC 14-33-1-1**

##### **General purposes**

Sec. 1. (a) A conservancy district may be established for any of the following purposes:

- (1) Flood prevention and control.
- (2) Improving drainage.
- (3) Providing for irrigation.
- (4) Providing water supply, including treatment and distribution, for domestic, industrial, and public use.
- (5) Providing for the collection, treatment, and disposal of sewage and other liquid wastes.
- (6) Developing forests, wildlife areas, parks, and recreational facilities if feasible in connection with beneficial water management.
- (7) Preventing the loss of topsoil from injurious water erosion.
- (8) Storage of water for augmentation of stream flow.
- (9) Operation, maintenance, and improvement of:
  - (A) a work of improvement for water based recreational purposes; or
  - (B) other work of improvement that could have been built for any other purpose authorized by this section.

(b) These purposes may be accomplished by cooperating with federal and state agencies whose programs are designed to accomplish any of the purposes of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-1-2**

##### **Sewage collection, treatment, and disposal; petition to engage in services outside territory boundaries**

Sec. 2. (a) A district established for the purpose of section 1(a)(5) of this chapter that proposes to collect, treat, or dispose of sewage and other liquid wastes produced outside of the district boundaries must petition the Indiana utility regulatory commission for territorial authority to engage in the services to territory outside of the boundaries of the district.

(b) Upon notice and hearing, the Indiana utility regulatory commission shall determine the following:

- (1) The territory outside of the boundaries from which sewage and other liquid wastes may be collected, treated, or disposed of.
- (2) The rates and charges that the district may make for the services.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-1-3**

#### **Use of powers to accomplish purpose of district**

Sec. 3. Powers granted by this article may be used only to accomplish each purpose set forth by the court in the order establishing the district. However, a district plan or act of the board necessary to accomplish a purpose for which the district is established is not invalid because the district plan or act incidentally accomplishes a purpose other than a purpose for which the district is established.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-1-4**

#### **Adding purpose to established district**

Sec. 4. To add a purpose to an established district:

- (1) the same procedure may be used as is provided for the establishment of a district; or
- (2) the board may pass a resolution adding an additional authorized purpose to the district already established if the board has received a petition that:
  - (A) is signed by at least ten percent (10%) of the freeholders in the district; and
  - (B) requests the addition of the purpose to the district.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-1-5**

#### **Procedures following passage of resolution**

Sec. 5. (a) If a petition is filed and a resolution passed under section 4 of this chapter, the board shall file the resolution and petition with the court.

(b) Upon receipt, the court shall do the following:

- (1) Order a hearing.
- (2) Have a copy of the resolution and the date of the hearing forwarded to the commission.
- (3) Order notice of the hearing as follows:
  - (A) A copy of the resolution and the time and place of the hearing shall be published at least one (1) time in at least one (1) newspaper of general circulation in each county containing land in the district.
  - (B) A copy of the notice as prepared for publication shall be sent by mail, first class postage prepaid, to each freeholder.

(c) The mailing of notice and proof of notice is the same as is required for notice of the hearing on the original petition to establish the district.

(d) The notice to the commission, the publication, and the mailing must be done at least thirty (30) days before the date of the hearing.

(e) If:

- (1) at the hearing an objection is not filed by the commission or by an owner of real property; and
- (2) the court determines that the petition is proper;

the court shall order the district to be established also for the

additional purpose.

(f) If an objection is filed, the court shall do the following:

(1) Determine at the hearing the following:

(A) The sufficiency of the petition.

(B) The necessity and feasibility of adding the purpose.

(2) Make the order according to the facts found.

*As added by P.L. 1-1995, SEC. 26.*

## **IC 14-33-2**

### **Chapter 2. Establishment**

#### **IC 14-33-2-1**

##### **Filing petition**

Sec. 1. Freeholders who desire the establishment of a district must initiate proceedings by filing a petition in the office of the clerk of the circuit court with jurisdiction in the county containing the most land within the proposed district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-2**

##### **Minimum number of freeholders signing petition**

Sec. 2. A petition filed under section 1 of this chapter must be signed by freeholders owning land in the proposed district in the minimum number or proportion of all the freeholders in the proposed district as follows:

- (1) Districts of not more than one thousand (1,000) freeholds, thirty percent (30%) of the freeholders.
- (2) Districts of at least one thousand one (1,001) and not more than five thousand (5,000) freeholds, fifteen percent (15%) of the freeholders but not less than three hundred (300) signatures.
- (3) Districts of at least five thousand one (5,001) and not more than twenty-five thousand (25,000) freeholds, ten percent (10%) of the freeholders but not less than seven hundred fifty (750) signatures.
- (4) Districts of at least twenty-five thousand one (25,001) freeholds, five percent (5%) of the freeholders but not less than two thousand five hundred (2,500) signatures.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-3**

##### **Number of freeholds in district; number of freeholders qualified to sign petition**

Sec. 3. To determine the number of freeholds in the proposed district and the number or proportion of freeholders owning land in the district qualified to sign a petition for establishment, the following apply:

- (1) Only one (1) freeholder's signature may be counted for any one (1) freehold. If a freehold is held in joint title, only one (1) freeholder's signature may be counted and it may be the signature of any one (1) of the freeholders owning the freehold in joint title. If a given freeholder qualifies as set forth in this section for at least two (2) freeholds, the freeholder's signature shall be counted for each freehold.
- (2) One (1) or more tracts of land owned solely by only one (1) freeholder constitute one (1) freehold.
- (3) One (1) or more tracts of land owned in joint title by at least two (2) identical freeholders constitute one (1) freehold. However, if one (1) of the freeholders owning the freehold in

joint title is a different or additional person, each freehold in joint title among nonidentical persons constitutes a separate and additional freehold.

(4) Subject to subdivisions (1), (2), and (3), if:

(A) a petition for the establishment of a district is filed by a municipality by ordinance adopted by the municipality's legislative body; or

(B) the municipality by ordinance has joined in a petition for inclusion in whole or part in the proposed district;

each freeholder in the area of the municipality that is in the proposed district is counted as a signatory to the petition. However, if a freeholder in the area of the municipality that is in the proposed district, after the filing of the petition for the establishment of the district, files a petition against the establishment of the proposed district, the number of freeholders considered and counted as signatories to the petition must be reduced by the number of freeholders in the area of the city that is in the proposed district filing a petition against the establishment of the district.

(5) Private corporations owning land in the proposed district may sign the petition by any officer authorized by the corporation. The officer's signature is prima facie evidence of the officer's authorization to sign the petition.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-4**

##### **Contents of petition**

Sec. 4. A petition must contain the following:

(1) The name for the proposed district, which should be in the form of "\_\_\_\_\_ Conservancy District".

(2) A description of the territory to be included, not necessarily by metes and bounds, but sufficiently accurate to inform the court and apprise the landowners of the possibility of the inclusion of their land in the district.

(3) A statement of each specific purpose for which the district is to be established.

(4) A statement of the necessity of accomplishing each purpose.

(5) A statement that the creation of the district will be conducive to the public health, safety, or welfare.

(6) A statement that the costs and damages of and to be paid solely by the district will probably be less than the benefits received in the district. If the purpose is declared to be water supply or sewage disposal, this statement need not be included.

(7) Whether the petition is conditioned upon a grant of federal or state money, or both, identifying the money upon which the petition is conditioned.

(8) Whether conditions attached to federal or state aid, or both, are acceptable if the federal or state government, or both, offer a grant of money.

(9) Whether maintenance and operation of the works of

improvement necessary to accomplish any or all of the purposes will be paid for:

- (A) solely by annual levy of the special benefits tax;
- (B) by both annual levy of the special benefits tax and an annual assessment on land found to be exceptionally benefited if exceptional benefits are expected to exist; or
- (C) by use of any other method provided by statute as long as the proportion between the tax and assessment is in approximately the same ratio as used to pay the cost of establishing the district and placing the district plan into operation.

(10) The number of directors to serve on the board, which must be three (3), five (5), seven (7), or nine (9).

(11) A statement of the division of the proposed district into areas, which must be equal in number to the number of directors.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-5**

##### **Motion for dismissal of petition**

Sec. 5. If:

- (1) a petition is conditioned upon a promise of federal money; and
- (2) the responsible federal agency informs the court that federal money is not available for the district as proposed by the petition or amendments to the petition;

the petitioners may move that the petition be dismissed. The court shall grant the motion.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-6**

##### **Petition in several counterparts**

Sec. 6. A petition may be circulated in several counterparts and still constitute a single petition.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-7**

##### **Petition by municipality**

Sec. 7. A municipality (as defined in IC 36-1-2) may file a petition to initiate a proposed district by ordinance adopted by the legislative body (as defined in IC 36-1-2). The proposed district may include land:

- (1) solely inside the municipality; or
- (2) partially inside and partially outside the municipality.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-8**

##### **Bond**

Sec. 8. (a) The petitioners must post a bond sufficient to pay the cost of notice and all legal costs of the court connected with the

proceedings in case the court refuses to establish the district and dismisses the petition.

(b) The petitioners shall pay the cost of notice and all legal costs if the court dismisses the petition.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-9**

##### **Jurisdiction**

Sec. 9. The circuit court with jurisdiction in the county having the most land in the proposed district has exclusive jurisdiction over the establishment of the district. If the district is established, this court also has exclusive jurisdiction over all further hearings in connection with the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-10**

##### **Transfer to court having jurisdiction**

Sec. 10. (a) A court in which a petition is filed shall order the proceedings transferred to the court having jurisdiction under section 9 of this chapter if:

- (1) the petition was filed in the wrong court by mistake; or
- (2) the petition is amended so that another county has more land in the proposed district.

(b) The court that establishes a district retains jurisdiction over the district regardless of a change in area of the district that results from later proceedings.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-11**

##### **Docket; hearing date**

Sec. 11. Upon receipt of a petition for the establishment of a district, the court shall docket the petition as a civil case and set a date for hearing. The court shall give priority to the hearing in determining the date, but the court must allow at least thirty (30) days for interested persons to receive notice.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-12**

##### **Notice of hearing on petition**

Sec. 12. The petitioners shall give notice of hearing on the petition as follows:

- (1) By publication in two (2) newspapers of general circulation in each county having land in the proposed district, three (3) times at successive weekly intervals. The first publication must be at least thirty (30) days before the date of the hearing. If there is only one (1) newspaper of general circulation in a county, three (3) publications in that newspaper are sufficient.
- (2) By mailing a copy of the notice at least twenty (20) days before the date of the hearing, first class postage prepaid, to each freeholder who has not signed the petition and who owns

land in the proposed district, according to the records of the county auditor. The person having the notice mailed shall file an affidavit with the court showing the following:

- (A) The names of the persons to whom notice was sent.
- (B) The address to which the notice was sent.
- (C) The date on which the notice was mailed.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-13**

##### **Notice of further proceedings**

Sec. 13. Notice of the hearing on a petition serves as notice of all further proceedings in connection with the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-14**

##### **Notice of hearing; contents**

Sec. 14. The notice of the hearing on the petition, in addition to all other requirements, must contain the following:

- (1) A statement that a petition for a district is before the court.
- (2) A statement of each purpose for which the district is proposed.
- (3) A statement as to which municipalities, townships, and counties the area of the proposed district lies within, in whole or in part.
- (4) The place of the hearing.
- (5) The date of the hearing.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-15**

##### **Petition against establishment of a district**

Sec. 15. (a) A petition against the establishment of a district may be presented to the court:

- (1) at the hearing on a petition; or
- (2) at any time thereafter before the fifth day before the hearing day initially ordered by the court after the receipt of the commission's report.

(b) If the court finds a petition against the establishment of a district contains the signatures of:

- (1) at least fifty-one percent (51%) of the freeholders in the proposed district; or
- (2) the freeholders who own at least sixty-six and two-thirds percent (66 2/3%) as determined by the assessed valuation of the real property in the proposed district;

the court shall dismiss the petition for the establishment of the district.

(c) Sections 3 and 6 of this chapter apply to this section.

(d) The fifth day before the hearing date initially ordered by the court after the receipt of the commission's report is the last date on which a petition to withdraw signatures may be filed.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-2-16**

#### **Petition requirements and conformity**

Sec. 16. (a) At the hearing on a petition for the establishment of a district, the court shall determine whether the petition:

- (1) bears the necessary signatures; and
- (2) complies with the requirements as to form and content.

(b) The court may not dismiss a petition with the requisite signatures because of alleged defects without permitting, in this or subsequent proceedings, amendments to correct errors in form or content. The court shall hear any interested person on the question.

(c) The following are prima facie evidence concerning the requirements for signatures on a petition:

- (1) Verified certification, based on personal knowledge or information and belief, by:

- (A) the persons who carried the petition; or
- (B) other persons knowing the facts as to the identity of the persons signing the petition and as to the ownership by those persons of land within the proposed district.

- (2) The records of the county auditor or county treasurer.

(d) The determination of:

- (1) the number of freeholds; and
- (2) the necessary number and identity of freeholders;

shall be made as of the date of filing a petition. If the petition as of that date bears the necessary number of signatures, the petition may not be dismissed because petitioners withdraw signatures that reduces the number of signatures below the required amount unless the withdrawals constitute more than fifty percent (50%) of the signers as of the date of filing.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-2-17**

#### **Commission's determination and report**

Sec. 17. (a) This section applies to all districts, except for districts described in section 18 of this chapter.

(b) If the court determines that a petition conforms to the requirements, the court shall enter an order referring the petition to the commission.

(c) The commission shall make a determination and report to the court whether the proposed district meets the following conditions:

- (1) The proposed district appears to be necessary.
- (2) The proposed district holds promise of economic and engineering feasibility.
- (3) The proposed district seems to offer benefits in excess of costs and damages for purposes other than the following:
  - (A) Water supply.
  - (B) Storage of water for augmentation of stream flow.
  - (C) Sewage disposal.

- (4) Whether the public health will be served immediately or prospectively by the establishment of the district for any of the following purposes:

- (A) Water supply.
  - (B) Sewage disposal.
  - (C) Storage of water for augmentation of stream flow.
  - (D) Any combination of these purposes.
- (5) The proposed district proposes to cover and serve a proper area.
- (6) The proposed district could be established and operated in a manner compatible with established:
- (A) conservancy districts;
  - (B) flood control projects;
  - (C) reservoirs;
  - (D) lakes;
  - (E) drains;
  - (F) levees; and
  - (G) other water management or water supply projects.

(d) The fact that all the land included in the proposed district is owned by one (1) freeholder or a limited number of freeholders is not a sufficient reason for the commission or the court to make unfavorable findings on:

- (1) the question of the establishment of the district; and
- (2) later, if the district is established, the approval of the district plan.

However, it must appear from the evidence that the land is subdivided or intended for subdivision and development and that the accomplishment of the purposes proposed and in the manner proposed would be necessary and desirable for the person acquiring and using the land after subdivision and development.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-2-18**

**Commission's determination and report for certain counties**

Sec. 18. (a) This section applies only to a district to be located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000).

(b) If the court determines that a petition conforms to the requirements, the court shall enter an order referring the petition to the commission.

(c) The commission shall make a determination and report to the court whether the proposed district should be established after determining whether the proposed district meets the following conditions:

- (1) The proposed district appears to be necessary.
- (2) The proposed district holds promise of economic and engineering feasibility.
- (3) The proposed district seems to offer benefits in excess of costs and damages for purposes other than the following:
  - (A) Water supply.
  - (B) Storage of water for augmentation of stream flow.
  - (C) Sewage disposal.

(4) Whether the public health will be served immediately or prospectively by the establishment of the district for any of the following purposes:

- (A) Water supply.
- (B) Sewage disposal.
- (C) Storage of water for augmentation of stream flow.
- (D) Any combination of these purposes.

(5) The proposed district proposes to cover and serve a proper area.

(6) The proposed district can be established and operated in a manner compatible with established:

- (A) districts;
- (B) flood control projects;
- (C) reservoirs;
- (D) lakes;
- (E) drains;
- (F) levees;
- (G) regional water districts;
- (H) regional sewer districts; and
- (I) other water management or water supply projects.

(d) The fact that all the land included in the proposed district is owned by one (1) freeholder or a limited number of freeholders is not a sufficient reason for the commission or the court to make unfavorable findings on:

- (1) the question of the establishment of the district; and
- (2) later, if the district is established, the approval of the district plan.

However, it must appear from the evidence that the land is subdivided or intended for subdivision and development and that the accomplishment of the purposes proposed and in the manner proposed would be necessary and desirable for the person acquiring and using the land after subdivision and development.

*As added by P.L.1-1995, SEC.26. Amended by P.L.170-2002, SEC.95; P.L.119-2012, SEC.122.*

#### **IC 14-33-2-19**

##### **Commission's hearings to determine facts**

Sec. 19. (a) In determining the facts, the commission shall hold hearings at which the commission shall give any interested person the right to be heard. At the request of an interested person, the commission shall hold hearings at the county seat of a county containing land in the proposed district. The commission shall choose the county seat.

(b) The commission shall give notice of the hearings by publication at least one (1) time in one (1) newspaper of general circulation in each county containing land in the proposed district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-20**

##### **Expenses**

Sec. 20. The expenses of the hearings and other expenses of necessary investigations and surveys, together with any expense incurred by the commission in subsequent studies of district plans, are payable initially out of the general money of the commission. The district shall repay the expenditures, not to exceed thirty percent (30%) of the amount paid by the district to independent private engineers for the preparation of plans, to the commission from the district's planning money. Commission expenses include only expenses incurred by an assisting or a cooperating state agency for services provided by an entity that is not a state agency.  
*As added by P.L.1-1995, SEC.26. Amended by P.L.165-2011, SEC.25.*

#### **IC 14-33-2-21**

##### **Purpose within jurisdiction of another agency**

Sec. 21. (a) If a proposed purpose is within the administrative jurisdiction of another state agency, the commission shall request technical assistance of the agency and give full weight to the agency in making a report to the court.

(b) State agencies shall furnish assistance to the commission necessary to accomplish the purposes of this article.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-22**

##### **Report of commission's findings**

Sec. 22. The commission shall make a report of the commission's findings to the court, including findings on the territorial limits of the proposed district. The commission shall make this report within one hundred twenty (120) days after the petition is referred to the commission, unless the commission requests and receives approval from the court for additional periods of thirty (30) days each.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-23**

##### **Report as prima facie evidence of facts**

Sec. 23. The factfinding report of the commission on the proposed district is prima facie evidence of the facts stated in the report in all subsequent proceedings.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-24**

##### **Amendments to petition**

Sec. 24. (a) The court may permit amendments to a petition to conform to the findings of the commission.

(b) If a petition is amended to include additional land other than the land published in the notice for hearing on the petition, the court may make a final determination on the establishment of the district only after there is published notice of the amendments or of motion to amend by the petitioners. In addition, the petitioners shall mail a notice of the amendments or of the motion to amend to all freeholders

of the additional land according to section 14 of this chapter, including mailing of notice under section 12 of this chapter.

(c) If a petition is amended to include additional land:

(1) the requirements regarding signatures in sections 2 and 3 of this chapter must be satisfied as if the land had been included in the petition as originally filed; and

(2) the following may be filed with the court at any time before the conclusion of the hearing after the receipt of the commission's report:

(A) Additional signatures to the petition for the establishment of the district.

(B) Signatures to a petition against the establishment of a district.

(C) Withdrawals from either petition.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-2-25**

#### **Court hearing; notice**

Sec. 25. (a) Upon receipt of the commission's report, the court shall set a date for a hearing. The court shall give priority to this hearing in determining the date, but the court must allow at least twenty-one (21) days for interested persons, including petitioners, to file exceptions.

(b) The court shall order notice for this hearing as the court considers necessary, but at least one (1) publication must be made in one (1) newspaper of general circulation in each county having land in the proposed district.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-2-26**

#### **Court's determination**

Sec. 26. (a) If the court finds at the hearing that:

(1) the only purpose of the district is water supply or sewage disposal, or both; and

(2) the public health is not served immediately or prospectively by the establishment of the district;

the court shall dismiss the petition.

(b) If the court finds at the hearing that:

(1) a purpose of the district is other than water supply or sewage disposal; and

(2) the costs and damages incident to the establishment of the district will exceed the benefits received within the district;

the court shall dismiss the petition.

(c) If the court finds that the evidence does support the statements in a petition, the court shall order the district established for the purposes named in the petition.

(d) If the court finds that the evidence supports at least one (1) of the purposes named in a petition but does not support at least one (1) of the other purposes, the court shall order the district established only for the purposes the court finds supported by the evidence.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-27**

##### **Order establishing district; modification of election procedures**

Sec. 27. (a) If the court orders a district established, the court shall in the order establishing the district determine the following:

- (1) The number of directors to serve on the board and the procedures for the election of the directors.
- (2) The division of the district into areas.
- (3) The time of the annual meeting of the district, which must be before March 1 each year.

(b) After the district is established, the board of directors of the conservancy district may petition the court to modify its order to change the procedures for election of the directors as provided in IC 14-33-5-2.

*As added by P.L.1-1995, SEC.26. Amended by P.L.88-2003, SEC.1.*

#### **IC 14-33-2-28**

##### **Appeals**

Sec. 28. An order:

- (1) dismissing a petition; or
- (2) establishing a district;

may be appealed to the supreme court within thirty (30) days.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-29**

##### **Final order**

Sec. 29. If:

- (1) a district is established by order of the court and an appeal is not taken within thirty (30) days; or
- (2) an order establishing a district is affirmed by the supreme court;

the establishment of the district is final and may not be directly or collaterally questioned in any action or proceeding.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-2-30**

##### **New petition; filing**

Sec. 30. If a petition is dismissed:

- (1) because the court finds the evidence does not support the petition according to section 26 of this chapter; or
- (2) according to section 15 of this chapter;

a new petition may not be addressed to any court to establish a district with essentially the same boundaries for any of the same purposes for two (2) years after the date of the order dismissing the petition. However, a petition dismissed for want of jurisdiction, including an insufficient number of signatures, may be refiled at any time after the correction of the jurisdictional defect.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-3**

### **Chapter 3. Boundaries**

#### **IC 14-33-3-1**

##### **Area of district**

Sec. 1. Any area may be established as a district if each part of the district is contiguous to another part. A municipality may be included in whole or in part in the district only if at least one (1) of the following conditions exist:

(1) The freeholders in the municipality or the part of the municipality to be included in the district have petitioned to be included in the same proportion as required by IC 14-33-2-2 for the proposed district as a whole.

(2) The municipality has by ordinance of the municipality's legislative body petitioned or joined in the petition to be included in whole or in part in the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-3-2**

##### **Flood control**

Sec. 2. (a) This section applies to a district described in IC 14-33-9-4.

(b) If one (1) purpose of the district is flood control, the commission and the court in establishing the boundaries of the district under this article shall consider all watersheds affected by the flooding water.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-3-3**

##### **Land included in two districts**

Sec. 3. A parcel of land may be included in two (2) districts established for the same purpose only with the written consent of all the owners of the land.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-4**

### **Chapter 4. Additions to Districts**

#### **IC 14-33-4-1**

##### **"Proposed district" defined**

Sec. 1. As used in this chapter, "proposed district" refers to the district and the area proposed to be added to the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-4-2**

##### **Procedures**

Sec. 2. (a) This section applies to all districts.

(b) To add area to a district already established:

(1) the same procedure must be used as is provided for the establishment of a district with the petition addressed to the court having jurisdiction over the district; or

(2) the board may pass a resolution adding additional area to the district already established if the board has received a petition that:

(A) is signed by:

(i) the majority of freeholders; or

(ii) a municipality under IC 14-33-2-7;

within the area proposed to be added; and

(B) requests the addition of the area to the district.

The resolution may contain reasonable terms and conditions imposed on the additional area.

(c) The board shall file the resolution and petition with the court.

(d) Upon receipt of a petition or a petition and a resolution, the court shall do the following:

(1) Set a date for a hearing.

(2) Have notice published and mailed to:

(A) the commission; and

(B) the freeholders both in the district and in the area proposed to be added;

in the same manner in which notice is required for notice of the hearing on the original petition to establish the district.

(e) If:

(1) an objection is not filed at the hearing by:

(A) the commission; or

(B) an owner of real property either in the district or in the area to be added; and

(2) the court determines that the petition is proper;

the court shall order the district established in the additional area.

(f) If an objection is filed, the court shall do the following:

(1) Determine at the hearing the following:

(A) The sufficiency of the petition.

(B) The necessity and feasibility of adding the area.

(2) Make the order according to the facts found.

*As added by P.L.1-1995, SEC.26. Amended by P.L.4-2004, SEC.1.*

**IC 14-33-4-3**

**Repealed**

*(Repealed by P.L.4-2004, SEC.3.)*

## **IC 14-33-5**

### **Chapter 5. Board of Directors**

#### **IC 14-33-5-0.5**

##### **Repealed**

*(Repealed by P.L.95-2006, SEC.10.)*

#### **IC 14-33-5-1**

##### **Appointment of initial board of directors**

Sec. 1. (a) Within twenty (20) days after an order establishing a district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district established by the court.

(b) A director must have the following qualifications:

(1) Be:

(A) a freeholder of the area of the district for which appointed; or

(B) an officer or a nominee of a corporate freeholder of the area of the district for which appointed.

(2) Be qualified by knowledge and experience in matters pertaining to the development of the district.

(c) A majority of the directors must be:

(1) resident freeholders of the district if available and qualified; and

(2) petitioners for the establishment of the district. For this purpose an officer or a nominee of a corporate freeholder of the district, if the corporation is a petitioner, is considered a petitioner.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-2**

##### **Election to fill vacancies; number of votes to elect**

Sec. 2. (a) At each annual meeting of the district, directors shall be elected to fill vacancies on the board due to expiration of terms, resignation, or otherwise. The election shall be conducted by written ballots. Except as provided in subsection (c), to be elected an individual must receive a majority of the votes of the freeholders of the district who are:

(1) present and voting in person; or

(2) absent but have mailed or delivered a written ballot vote.

(b) A written ballot vote must be signed and mailed or delivered to the district office. A ballot is valid if delivered or received before the scheduled date of the annual meeting.

(c) Upon receipt of a petition from the board of directors of a conservancy district, the circuit court may modify the order establishing the district under IC 14-33-2-27 to provide that each director representing an area established under IC 14-33-2-27 shall be elected by a majority of the votes of the freeholders of the respective areas.

*As added by P.L.1-1995, SEC.26. Amended by P.L.88-2003, SEC.2.*

### **IC 14-33-5-3**

#### **Nominations**

Sec. 3. (a) Beginning October 24 and not later than November 1, the board shall invite nominations to fill vacancies on the board at the next annual meeting by one (1) publication in a newspaper of general circulation in each county in the district. Each publication must do the following:

- (1) Contain the names of the directors whose terms are expiring and the area of the district involved.
- (2) Invite nominations to fill vacancies.
- (3) State the qualifications for the office as prescribed by section 1 of this chapter, except for the following:
  - (A) A nominee does not have to have been a petitioner for the establishment of the district.
  - (B) A nominee does not have to be a resident of the area of the district for which nominations are invited.

(b) Nominations for director must:

- (1) be submitted to the office of the district in writing before December 1 following notice of vacancies; and
- (2) be signed by at least five (5) freeholders from the areas designated by the secretary's notice.

(c) Nominations that are mailed are valid if:

- (1) delivered or postmarked before December 1;
- (2) the envelope has sufficient United States postage; and
- (3) the envelope is addressed to the district's office.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-5-4**

#### **Annual meeting**

Sec. 4. (a) The annual meeting of the district must be held at the time designated by the court:

- (1) at the district's office; or
- (2) at a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(b) Notice of the annual meeting of the district must be given by one (1) publication in a newspaper of general circulation in each county in the district at least fourteen (14) and not more than thirty-one (31) days before the annual meeting. The notice must contain the following:

- (1) The names of the nominees.
- (2) The place where the election will be held.
- (3) The time of the election.
- (4) The fact that this is the annual meeting of the district.
- (5) The purposes of the meeting.
- (6) The time during which ballots may be cast.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-5-5**

#### **Ballots; certification**

Sec. 5. (a) Before the annual meeting, the board shall prepare the

ballots and a list of the freeholders of the district, which must be certified by the county auditor and placed in the district's files. A deficiency in this process or an omission of the names of any freeholders does not void action taken at an annual meeting.

(b) Only one (1) vote may be cast per freehold.

*As added by P.L.1-1995, SEC.26. Amended by P.L.16-2010, SEC.1.*

#### **IC 14-33-5-6**

##### **Voting procedures**

Sec. 6. (a) At each annual meeting and before the election of directors, the chairman shall appoint three (3) freeholders of the district who are present at the annual meeting to act as clerks of and conduct the election.

(b) Before the casting of a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the secretary of the district. If the clerks find that a freeholder's name is erroneously omitted from the list, the clerks shall place the name on the list. The omitted freeholder is then entitled to cast a ballot.

(c) The clerks shall note the fact of receipt of a valid written ballot vote opposite the freeholder's name who cast that vote. At this time the written ballot vote is considered cast.

(d) At the close of the election poll, the clerks shall count the cast ballots and make a report of the results. The secretary of the district shall record the results in the records of the district. The chairman shall then declare the successful nominees elected, and the elected directors are entitled to and shall assume all the duties of the office for which elected.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-7**

##### **Oath of director**

Sec. 7. Promptly after appointment or election a director shall take the following oath:

"I solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement."

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-8**

##### **Petition to fill vacancies**

Sec. 8. If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county shall make an appointment within fifteen (15) days from the date the petition is filed.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-9**

##### **District composed of land from more than one county**

Sec. 9. For the purposes of this chapter, if the district is composed of land from more than one (1) county, the board of commissioners of each county may participate in the following:

(1) The appointment of the initial board.

(2) The filling of vacancies on the board.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-10**

##### **Advisory members of board; area directors**

Sec. 10. (a) Notwithstanding other provisions of this chapter, this section applies to all districts described in IC 14-33-9-4.

(b) The following shall serve as advisory members of the board and have all privileges of membership except the right to vote:

(1) The city engineer of each second class city in the district.

(2) The county surveyor of the county.

(3) The chairman of the county soil and water conservation district.

(c) On the same day as the primary election held in even-numbered years, the voters shall select the area directors. At the initial election held under this section, the authority that makes the initial appointment of directors under section 1 of this chapter shall designate the initial terms of the directors elected as follows:

(1) One-half (1/2) plus one (1) of the directors serve for two (2) year terms.

(2) The other directors serve for four (4) year terms.

After the first election, all directors serve for four (4) year terms. Area directors take office on June 1 after election.

(d) The initial appointments of directors under section 1 of this chapter shall be made so that the directors serve until the election in the first even-numbered year following the year of appointment.

(e) Nominations for director signed by at least five (5) freeholders shall be filed with the county election board during the period when filing for other county offices takes place, and the board shall publicly invite nominations at least five (5) days before this filing period begins.

(f) Each director must be a freeholder and a resident of the district from which elected. Only one (1) director may be elected from each district.

(g) When a vacancy occurs on the board:

(1) the chairman of the board; or

(2) five (5) freeholders from the district where the vacancy exists;

may petition the appointing authority to have the appointing authority make an appointment to fill the vacancy for the remainder of the unexpired term.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-11**

##### **Terms for initial directors**

Sec. 11. (a) The board of commissioners of the county shall

appoint the initial directors for the following terms:

(1) If there are three (3) or five (5) directors, the terms are as follows:

- (A) One (1) term expires at the next annual meeting.
- (B) One (1) term expires at the second annual meeting.
- (C) One (1) term expires at the third annual meeting.
- (D) Any other terms expire at the fourth annual meeting.

(2) If there are seven (7) or nine (9) directors, the terms are as follows:

- (A) Two (2) terms expire at the next annual meeting.
- (B) Two (2) terms expire at the second annual meeting.
- (C) Two (2) terms expire at the third annual meeting.
- (D) All other terms expire at the fourth annual meeting.

(b) As the terms expire, each new director shall be elected for a term of four (4) years.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-11.5**

##### **Single nominee considered elected; no election required when only one nominee in each district**

Sec. 11.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

- (1) The election otherwise required to be held under this chapter is not required to be held.
- (2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

*As added by P.L.16-2010, SEC.2.*

#### **IC 14-33-5-12**

##### **Vacancies**

Sec. 12. (a) If a vacancy occurs on the board, the board shall vote to appoint a member to serve until the next annual meeting.

(b) If the vote held under subsection (a) results in a tie, a judge of the circuit court of the county in which the district was established shall designate a person to serve as a member until the next annual meeting.

(c) At the next annual meeting a director shall be elected to complete the term.

*As added by P.L.1-1995, SEC.26. Amended by P.L.4-2004, SEC.2.*

#### **IC 14-33-5-13**

##### **Meetings**

Sec. 13. The board shall by resolution fix the time for holding regular meetings, but the board shall meet at least quarterly each year.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-14**

##### **Special meetings**

Sec. 14. (a) Special meetings of the board may be called by the chairman or by two (2) members upon written request to the secretary. The secretary shall send to all members, at least three (3) days before a special meeting, a written notice fixing the time and place of the meeting.

(b) Written notice of a special meeting is not required if:

- (1) the time of the special meeting has been fixed in a regular meeting; or
- (2) all members were present at a meeting at which a special meeting was called.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-15**

##### **Quorum**

Sec. 15. A majority of the board constitutes a quorum. An action of the board is official, however, only if authorized by a majority of the board at a regular or properly called special meeting.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-16**

##### **Compensation**

Sec. 16. (a) Except as provided in subsection (b), upon approval of the initial district plan, the directors are entitled to compensation in an amount that the court orders, but not to exceed:

- (1) one hundred dollars (\$100) for not more than two (2) regular or specially called board meetings per month; and
- (2) fifty dollars (\$50) for not more than five (5) days per month devoted to the work of the district in addition to any day for which payment is received under subdivision (1). In addition, the directors shall be reimbursed for actual expenses, including traveling expense at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement must be accompanied by an itemized written statement approved by a recorded motion of the board.

(b) At any time after all directors have been elected to the board, the directors may receive an increase in compensation up to a reasonable amount that is:

- (1) approved by a majority vote of the board of directors; and
- (2) authorized by a court order.

(c) An increase in compensation authorized under subsection (b) may not be based upon an increase of any tax, assessment, rates, or charges by the district.

(d) In addition to any compensation the directors may receive under subsection (b), the directors shall be reimbursed for actual expenses, including traveling expenses, at a rate equal to the rate paid to state officers and employees. Claims for expense reimbursement

must be accompanied by an itemized written statement approved by a recorded motion of the board of directors.

*As added by P.L.1-1995, SEC.26. Amended by P.L.78-2007, SEC.2; P.L.113-2012, SEC.1.*

#### **IC 14-33-5-17**

##### **Chairman and vice chairman**

Sec. 17. Immediately following appointment and immediately following each annual meeting of the district, the directors shall meet and elect a chairman and a vice chairman. The vice chairman may act as chairman during the absence or disability of the chairman. The chairman shall promptly notify the commission in writing of the names and addresses of the officers and directors of the district, and the same information, together with the executed oaths, shall be filed with the circuit court.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-18**

##### **Employees; contracts and leases**

Sec. 18. (a) The board may appoint, prescribe the duties, and fix the compensation of the following:

- (1) A secretary.
- (2) A financial clerk.
- (3) An engineer.
- (4) Employees that are necessary for the discharge of duties and responsibilities of the board.

(b) A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1.

(c) The board may make contracts for the following:

- (1) Special and temporary services, including professional counsel.
- (2) Leases of land to a provider of commercial mobile service (as defined in 47 U.S.C. 332) that allows for the construction, use, and maintenance of a tower that is used for telecommunications purposes.

*As added by P.L.1-1995, SEC.26. Amended by P.L.16-2010, SEC.3.*

#### **IC 14-33-5-19**

##### **Office; location**

Sec. 19. (a) At the first meeting of the first board, the board shall adopt by majority vote a resolution designating the location in or near the district where the district will maintain an office. The board may adopt a resolution by majority vote at any meeting of the board to change the location of the district's office. The board shall report the location of the office and a change in location to the court establishing the district.

(b) The board shall do the following:

- (1) Arrange for office space.
- (2) Keep a record of all transactions and minutes of all meetings in the office.

- (3) Keep all records and minutes available for inspection by any interested person of the district during the hours that the district office is open for business.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-20**

##### **Duties of board**

Sec. 20. The board shall do the following:

- (1) Exercise general supervision of and make regulations for the administration of the affairs of the district.
- (2) Prescribe uniform rules pertaining to investigations and hearings.
- (3) Supervise the fiscal affairs and responsibilities of the district.
- (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of the employees of the district. The compensation must be reasonable and similar in amount to the compensation allowed employees performing similar service for the state and political subdivisions of the state. The board may delegate to employees authority to perform ministerial acts in all cases except where final action of the board is necessary.
- (5) Keep an accurate and complete record of all district proceedings and record and file all bonds and contracts, assuming responsibility for the custody and preservation of all papers and documents of the district.
- (6) Make an annual report to the court of income and expenses. The report must be submitted not later than thirty (30) days after the annual meeting and may include any of the following:
  - (A) A statement of the progress in accomplishing each purpose for which the district is established.
  - (B) Recommendations for amendment to the district plan.
  - (C) Any matter that the board believes should be brought to the attention of the court for instructions or approval.
- (7) Adopt a seal and certify all official acts.
- (8) Sue and be sued collectively by the legal name " \_\_\_\_\_ Conservancy District", with service of process made on the chairman of the board. However, costs may not be taxed against the directors individually in an action.
- (9) Invoke any legal, equitable, or special remedy for the enforcement of this article or of any proper action of the board in a court.
- (10) If advisable, establish an advisory committee.
- (11) Exercise the powers granted under this article to accomplish each purpose for which the district is established.
- (12) If a purpose of the district is the construction or maintenance of a levee in cooperation with the United States Secretary of the Army, divide, by resolution, the levee into maintenance sections and make assignment of each section to a director who must be a resident freeholder near the maintenance section. The director shall, upon assignment, supervise and assist in the maintenance of the assigned maintenance section.

(13) Protect against encroachment by a stream. The board may, alone or in cooperation with state or federal agencies, do whatever is necessary to provide bank stabilization for the protection of the works of improvement of the district.

(14) Insure property, personnel, and operations of the district against risks and in amounts that the board determines necessary to protect the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-20.5**

##### **Prior approval of expenses; review of claims**

Sec. 20.5. (a) A board may adopt a resolution allowing money to be disbursed for lawful district purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board, the financial clerk of the district may make claim payments in advance of board allowance for the following kinds of expenses if the board has adopted a resolution under subsection (a):

(1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.

(2) License or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) General grant programs for which advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance or service agreements.

(8) Leases or rental agreements.

(9) Bond or coupon payments.

(10) Payroll.

(11) State or federal taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Expenses described in a resolution.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the financial clerk of the district.

(d) The board shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

*As added by P.L.129-2011, SEC.7.*

#### **IC 14-33-5-21**

##### **Powers relating to sewage and liquid waste**

Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

(1) Subject to sections 21.1 and 21.2 of this chapter, establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.

(2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.

(3) Establish rules and regulations.

(4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.

(5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.

(6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

*As added by P.L.1-1995, SEC.26. Amended by P.L.168-2009, SEC.1.*

#### **IC 14-33-5-21.1**

##### **Campgrounds; rates for sewage service**

Sec. 21.1. (a) This section applies to a campground that:

- (1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or
- (2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

- (1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and
- (2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:
  - (A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or
  - (B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

- (1) the installation of:
  - (A) oversized pipe; or
  - (B) any other unique equipment;necessary to provide sewage service for the campground; and
- (2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

*As added by P.L.168-2009, SEC.2.*

## **IC 14-33-5-21.2**

### **Campgrounds; sewage service rate disputes; utility regulatory commission**

Sec. 21.2. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

- (1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;
- (2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or
- (3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

- (1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:
  - (A) any grievance or complaint procedure prescribed by the board; or
  - (B) other negotiations with the board; and
- (2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the

appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

- (1) the owner or operator of the campground; and
- (2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

- (1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and
- (2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section.

*As added by P.L.168-2009, SEC.3.*

#### **IC 14-33-5-22**

##### **Agreements with people or entities; debt agreements**

Sec. 22. (a) The board may do the following:

- (1) Enter into agreement with and accept money from a federal or state agency or department.
- (2) By the agreement provide the manner in which resulting debt is evidenced, with:
  - (A) the term;
  - (B) the interest rate; and
  - (C) the method and time of repayment;

subject to statutes governing the federal or state agency or department, without regard to other limitations of this article.

(b) The board may also enter into an agreement with a person, municipality, county, or special taxing district, whether or not the person, municipality, county, or special taxing district is in the district, for any purpose compatible with the purposes for which the district exists. The municipality, county, or special taxing district may enter into the agreement.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-23**

##### **Gifts of money or property**

Sec. 23. The board may accept gifts of money or other property to be used for certain aspects of a general purpose for which the district is established.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5-24**

**Petition to enjoin or mandate board**

Sec. 24. An interested person adversely affected by an action committed or omitted by the board in violation of this chapter may petition the court having jurisdiction over the district to enjoin or mandate the board.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-5.4**

#### **Chapter 5.4. Election of Board Members in Specific Conservancy Districts**

##### **IC 14-33-5.4-1**

##### **Application of chapter**

Sec. 1. (a) This chapter applies only to conservancy districts located wholly within a county having a population of more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000).

(b) This article governs conservancy districts located wholly within a county having a population of more than twenty-three thousand three hundred (23,300) but less than twenty-four thousand (24,000) generally except when this article conflicts with a section of this chapter.

*As added by P.L.185-1995, SEC.2. Amended by P.L.170-2002, SEC.97; P.L.119-2012, SEC.123.*

##### **IC 14-33-5.4-2**

##### **"Relative" defined**

Sec. 2. (a) As used in this chapter, "relative" of a candidate or trustee means an individual who is related to the candidate or trustee, or to the spouse of the candidate or trustee, as one (1) of the following:

- (1) Son.
- (2) Daughter.
- (3) Grandson.
- (4) Granddaughter.
- (5) Great-grandson.
- (6) Great-granddaughter.
- (7) Father.
- (8) Mother.
- (9) Grandfather.
- (10) Grandmother.
- (11) Great-grandfather.
- (12) Great-grandmother.
- (13) Brother.
- (14) Sister.
- (15) Nephew.
- (16) Niece.
- (17) Uncle.
- (18) Aunt.

(b) For the purposes of this section, relatives by adoption, half-blood, marriage, or remarriage are treated as relatives of whole kinship.

*As added by P.L.185-1995, SEC.2.*

##### **IC 14-33-5.4-3**

##### **Appointment; vacancies; election procedures**

Sec. 3. (a) Within twenty (20) days after the order establishing the

district, the board of commissioners of the county shall appoint the initial board of directors. A director shall be appointed for each of the areas in the district as established by the court. A director must be a freeholder of the area of the district for which appointed or an officer or nominee of a corporate freeholder of the area of the district for which appointed and must be qualified by knowledge and experience in matters pertaining to the development of the district. A majority of the directors must be resident freeholders of the district if available and qualified. A majority of the initial directors must be petitioners for the establishment of the district, but for this purpose an officer or nominee of a corporate freeholder of the district, if the corporation is one (1) of the petitioners, is considered a petitioner.

(b) When vacancies on the board occur due to expiration of terms, resignation, or otherwise, directors shall be elected by a majority, written ballot vote of the freeholders of the district. Between April 24 and May 1, the board shall invite nominations to fill vacancies on the board by one (1) publication in a newspaper of general circulation in each of the counties in the district. Each publication must:

- (1) contain the names of the directors whose terms are expiring and the area of the district involved;
- (2) invite nominations to fill vacancies; and
- (3) state the qualifications for the office, that are the same as prescribed by subsection (a), except a nominee need not have been a petitioner for the establishment of the district nor a resident of the area of the district for which nominations are invited.

(c) Nominations for director must be submitted to the office of the district in writing before June 1 following notice of vacancies and must be signed by at least five (5) freeholders from the areas designated by the secretary's notice. Nominations that are mailed are valid if delivered or postmarked before June 1 if the envelope has sufficient U.S. postage and is addressed to the district's office.

(d) The election of directors of a district shall be held the Saturday or Sunday immediately before or after July 4. The board of directors of a district shall establish the date for the election of directors.

(e) Notice of the annual election of directors of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

- (1) not less than fourteen (14); and
- (2) not more than thirty-one (31);

days before the election. The notice must contain the names of the nominees, the place where ballots can be cast in the election, and the date and time of the election.

(f) Before the election, the board shall prepare the ballots and a list of the freeholders of the district, that must be certified by the county auditor and placed in the district's files. No deficiency in this process or omission of the names of any freeholders voids action taken at an annual meeting.

(g) A freeholder is entitled to only one (1) vote per freeholder.

(h) Before the election of directors, the chairman shall appoint

three (3) or, if necessary, more freeholders of the district to act as clerks of the election and to conduct the election.

(i) If a district fails to conduct an election of directors as provided by this chapter, any interested person of the district may petition the board of commissioners of the county to appoint a director to fill vacancies. The board of commissioners of the county shall make its appointment within fifteen (15) days from the date the petition is filed.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-3.5**

##### **Effect of dividing freehold to increase votes; secretary's determination; challenge of determination**

Sec. 3.5. (a) If in the opinion of the secretary of the district a freehold has been divided into multiple freeholds for the sole purpose of increasing the number of freeholders eligible to cast a vote in an election under this chapter, the secretary of the district may determine to exclude the freeholders of those multiple freeholds from the list of freeholders referred to in section 3(f) of this chapter.

(b) The determination of the secretary of the district under subsection (a) may be challenged by petitioning the circuit court that created the district.

*As added by P.L.16-2010, SEC.4.*

#### **IC 14-33-5.4-4**

##### **Requirements for voting eligibility**

Sec. 4. (a) The auditor of each county shall, at least forty-five (45) days before the election of directors of the district, provide the district with a current list of freeholders that sets forth:

(1) each parcel of real property that is:

(A) located within the county and the district; and

(B) subject to property tax under IC 6-1.1; and

(2) the name of each individual who is identified in property tax records as the holder of a freeholder's interest in a parcel of property described in subdivision (1).

(b) To be eligible to vote in an election of directors of a district:

(1) an individual must have a freeholder's interest in real property listed on the current tax list provided under subsection (a); and

(2) the individual's name must appear on the list of freeholders provided under subsection (a).

(c) Before casting a vote at a polling place, a freeholder shall sign the list of freeholders in the presence of the secretary of the district or an election clerk appointed under section 3(h) of this chapter. The freeholder shall sign the list in the space opposite the name of the freeholder on the list.

(d) Notwithstanding subsection (b)(2), if:

(1) a freeholder's name does not appear on the list of freeholders; and

(2) the secretary of the district or an election clerk finds that the

freeholder's name was erroneously omitted from the list; the secretary or clerk shall place the freeholder's name on the list. After the freeholder's name is placed on the list, the freeholder is entitled to cast a ballot in the election.

(e) After placing a freeholder's name on the list under subsection (d), the secretary or clerk shall mark the list opposite the name of the freeholder who cast that vote to note the receipt of a valid written ballot vote from the freeholder.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-5**

##### **Voting procedures; presence of candidate at polling place**

Sec. 5. (a) Two (2) observers may monitor the voting at each polling place on behalf of each candidate for director. The district must provide each observer with a copy of the list of freeholders provided to the district under section 4(a) of this chapter.

(b) A candidate for director may not be present in a polling place during the day of the election of directors except to cast a ballot.

(c) The relative of a candidate for director may not be present in a polling place during the day of the election of directors except:

(1) to cast a ballot; or

(2) to act as an observer under subsection (a).

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-6**

##### **Absentee ballots**

Sec. 6. (a) A district must adopt a form for applications for absentee ballots. The form adopted by the district must elicit the following information from the applicant:

(1) Name.

(2) Location within the district of the real estate that is held by the applicant, making the applicant a freeholder.

(b) An individual who:

(1) holds a freeholder's interest in real property located within a district; and

(2) wishes to cast an absentee ballot in an election of directors of the district;

must present an application for an absentee ballot to the trustee of the township in which the real property of the freeholder is located. The application must be made on the form adopted by the district under subsection (a).

(c) To be accepted, an application for an absentee ballot must reach the trustee at least thirty (30) days before the election.

(d) When the trustee receives an application for an absentee ballot under this section, the trustee shall verify that the name of the applicant appears on the list of freeholders provided to the district under section 4(a) of this chapter. For the purposes of this subsection, the district shall provide a copy of the list of freeholders to the trustee of each township that is located in whole or in part within the district at least thirty (30) days before the election.

(e) If the name of an applicant appears on the list of freeholders, the trustee shall mail to the applicant:

- (1) an absentee ballot; and
- (2) instructions on the proper completion and mailing of the ballot.

(f) The instructions provided by the trustee under subsection (e)(2) must direct the applicant to return the absentee ballot by mail to the trustee.

(g) If the name of an applicant does not appear on the list of freeholders, the trustee shall:

- (1) discard the application of the applicant; and
- (2) mail to the applicant a letter or postcard informing the applicant that the applicant's application for an absentee ballot has been discarded because the applicant's name did not appear on the list of freeholders.

(h) A trustee shall:

- (1) keep a record of each absentee ballot mailed to an applicant under subsection (e);
- (2) retain absentee ballots that are returned to the office of the trustee before the date of the election; and
- (3) on the day of the election, deliver all absentee ballots retained under subdivision (2) to an election polling place.

(i) The district shall:

- (1) supply the trustee with:
  - (A) absentee ballots; and
  - (B) envelopes; and

(2) reimburse the expenses incurred by the trustee for postage; under this section.

(j) If a relative of a trustee is a candidate for director of a district, the duties of the trustee under this section with respect to the election of directors of the district shall be carried out by a member of the township board selected by the trustee.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-7**

##### **Results of election**

Sec. 7. (a) At the close of an election, the clerks appointed under section 3(h) of this chapter shall count the ballots cast and make a report of the results. The secretary of the district shall record the results reported by the clerks in the records of the district.

(b) After the results are reported and recorded under subsection (a), the chairman of the board of directors shall declare the successful nominees elected, and each elected director is entitled to and shall assume all duties of the office to which the nominee was elected at midnight the night of the election or as soon as possible thereafter.

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-7.5**

##### **Single nominee considered elected; no election required when only one nominee in each district**

Sec. 7.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

*As added by P.L.16-2010, SEC.5.*

#### **IC 14-33-5.4-8**

##### **Oath of office**

Sec. 8. Promptly after being appointed or elected under this chapter, a director shall take the following oath: "I do solemnly swear that I shall, to the best of my ability, strive to accomplish the purposes for which the district is established and properly to operate and maintain its works of improvement."

*As added by P.L.185-1995, SEC.2.*

#### **IC 14-33-5.4-9**

##### **Annual meeting**

Sec. 9. (a) The annual meeting of the district must be held at the time designated by the court under IC 14-33-2-27.

(b) The location of the annual meeting must be:

(1) the office of the district; or

(2) a place in or near the district as determined by resolution of the board adopted before December 1 of the year.

(c) Notice of the annual meeting of the district must be published in one (1) issue of a newspaper of general circulation in each county in the district. The notice must be published:

(1) not less than fourteen (14); and

(2) not more than thirty-one (31);

days before the annual meeting.

(d) The notice must set forth:

(1) the fact that the meeting is the annual meeting of the district; and

(2) the purposes of the meeting.

*As added by P.L.185-1995, SEC.2.*

**IC 14-33-5.5**

**Repealed**

*(Repealed by P.L.95-2006, SEC.10.)*

## **IC 14-33-6**

### **Chapter 6. District Plan**

#### **IC 14-33-6-1**

##### **Preparation of district plan**

Sec. 1. (a) Immediately after the organizational meeting of the board, the board must commence the preparation of the district plan to accomplish the purpose for which the district is established. The board may request and receive from a state agency information that:

- (1) the agency has collected regarding conditions in and immediately surrounding the district; and
- (2) is pertinent to planning the necessary structures or operations of the district.

(b) The board may:

- (1) contract;
- (2) enter into agreements with a state or federal agency; or
- (3) hire necessary personnel;

to provide technical data or otherwise assist in the preparation of the district plan.

(c) The board may also conduct hearings that the board finds necessary.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-2**

##### **Contents of district plan**

Sec. 2. (a) A district plan consists of an engineering report that sets forth the general, comprehensive plan for the accomplishment of each purpose for which the district was established. A district plan must contain the following:

- (1) Descriptions of the following:
  - (A) The physical nature of the district.
  - (B) The problems confronting the district.
  - (C) The works of improvement needed.
  - (D) The location of the works of improvement.
  - (E) The benefits to be derived from the improvements.
- (2) Maps, preliminary drawings, and estimates of costs based upon preliminary engineering surveys and studies.
- (3) Copies of agreements or other arrangements with other persons or governmental agencies with respect to the financing, construction, maintenance, and operation of any of the works of improvement proposed in the plan.

(b) A district plan may initially provide works of improvement for the accomplishment of less than all the purposes for which the district was established if:

- (1) there is good reason for accomplishing less than all the purposes; and
- (2) assurance is given that the program for the accomplishment of the other purposes will be set forth in an amendment to the district plan.

(c) It is not necessary to prepare:

(1) detailed construction drawings and specifications; and  
(2) refined cost estimates;  
as a part of a district plan.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-3**

##### **Time for presentation of plan**

Sec. 3. The board shall present the district plan to the commission within one hundred twenty (120) days after the date of the appointment of the members of the board, unless the board requests and receives additional time from the commission.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-4**

##### **Commission's treatment of plan**

Sec. 4. (a) The commission shall do the following:  
(1) Review each district plan.  
(2) Request the technical assistance of any other state agency, including:  
(A) the environmental rules board;  
(B) the state department of health; and  
(C) the department of environmental management;  
having administrative jurisdiction over any of the purposes of the district.  
(b) The commission may also request technical assistance of any federal agency.  
(c) The commission shall approve a plan if the following conditions are met:  
(1) Any other state agency having authority over certain purposes of the district has approved that part of the plan.  
(2) The commission finds that the plan accomplishes in an economical manner the purpose for which the district is established.  
(d) The commission may reject a plan or any part of a plan.  
The board may make the changes that are necessary to secure the approval of the commission.  
*As added by P.L.1-1995, SEC.26. Amended by P.L.113-2014, SEC.99.*

#### **IC 14-33-6-5**

##### **Plan filed with court; hearing; notice**

Sec. 5. (a) After receiving the approval of the commission, the board shall file the district plan with the court.  
(b) Upon receipt the court shall set a date for a hearing. The court shall give priority to the hearing in determining the date, but the court must allow at least twenty-one (21) days for interested persons to file exceptions.  
(c) The court shall order notice for the hearing that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if

the notice affected county business.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-6**

##### **Findings by court; referral of plan back to board**

Sec. 6. (a) At the hearing the court shall make findings on the following:

- (1) Whether the district plan is necessary, proper, and feasible for the accomplishment of each purpose for which the district is established.
- (2) If the purpose of the district is other than water supply or sewage disposal, whether the estimated benefits to be received in the district will exceed the estimated costs and damages of the plan.
- (3) If the purpose of the district is water supply or sewage disposal, or both, whether the public health and convenience is served.
- (4) Whether compatibility with water projects listed in IC 14-33-2-17 is reasonably assured.

(b) If the court finds a plan lacking under subsection (a), the court shall refer the plan back to the board for changes that are necessary. The board has:

- (1) one hundred twenty (120) days; or
- (2) another period that the court orders;

to prepare and submit a new plan. The procedure for approval and order for hearing, notice, and making findings is the same as for the original submissions.

(c) If the court finds that a plan meets all the criteria of subsection (a), the court shall approve the plan.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-7**

##### **Appeals**

Sec. 7. The board or an interested person adversely affected by the plan may appeal an order:

- (1) referring the district plan back to the board; or
- (2) approving the district plan;

to the supreme court within thirty (30) days.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-8**

##### **Implementation of plan**

Sec. 8. (a) To implement a district plan, the board shall order the preparation of the detailed construction drawings, specifications, and refined cost estimates as soon as practicable after the approval of the district plan by the court if the work has not been submitted as a part of the district plan. The implementation may involve all or part of the works of improvement if the part constitutes a unit that:

- (1) can be constructed and operated as a feasible unit alone; and
- (2) can be operated economically in conjunction with other

proposed works set forth in the district plan.

(b) When the drawings, specifications, and cost estimates have been prepared to the satisfaction of the board, the board shall by resolution tentatively adopt and submit the drawings, specifications, and cost estimates to the commission for approval.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-9**

##### **Hearing on drawings, specifications, and cost estimates**

Sec. 9. (a) Upon receipt of the written approval of the commission, the board shall schedule a hearing on the drawings, specifications, and cost estimates at which any interested person must be heard. The hearing shall be held:

- (1) in the office of the district; or
- (2) at another place designated in the notice of hearing that is generally convenient to the landowners of the district.

(b) The board shall give notice of the hearing as follows:

- (1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district.
- (2) By mail, first class postage prepaid, to the freeholder of each tract of real property that will be taken or damaged by the construction of the works of improvements.

(c) The notice must be published and mailed at least ten (10) days before the date of hearing.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-10**

##### **Board confirming or revoking tentative resolution**

Sec. 10. At the hearing the board shall by resolution:

- (1) confirm, with or without modification; or
- (2) revoke;

the board's tentative resolution adopting the drawings, specifications, and cost estimates.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-11**

##### **Contracts and construction of improvements**

Sec. 11. If the board confirms the drawings, specifications, and cost estimates, the board shall let contracts or otherwise construct the works of improvement provided in the drawings, specifications, and cost estimates. The board may not let a contract for an amount that exceeds the cost estimate. However, if all bids are greater than the cost estimate, the board may let a contract for an amount that does not exceed five percent (5%) over the cost estimate if the cost of rebidding, rising cost level, or other good reason necessitates this course of action.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-6-12**

##### **Amendment of plans**

Sec. 12. (a) As the result of:

- (1) experience gained in the construction or operation of the works of a district; or
- (2) changed conditions;

the district plan may be amended in any way as long as the amended district plan conforms to the other requirements of this chapter.

(b) The board shall prepare an amended district plan only if ordered to do so by the court. The court shall order an amended district plan if the court finds there is need for amendment based upon a petition filed by any of the following:

- (1) By the board on the board's own motion.
- (2) By the commission on the commission's own motion.
- (3) By twenty percent (20%) of the freeholders owning land in the district. IC 14-33-2-3 applies to this petition.

(c) The party that filed a petition under subsection (b) may appeal an order denying the petition to the supreme court within thirty (30) days.

(d) The same procedures provided for the initial submission of the district plan must be complied with for the submission of an amended district plan.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-6-13**

#### **Powers and duties of board**

Sec. 13. (a) The board shall place the district plan in operation by constructing all works and maintaining the works in accordance with the district plan.

(b) If necessary to discharge these responsibilities, the board may do the following:

- (1) Levy taxes on the real property in the district.
- (2) Make assessments on the real property in the district, except the property that is exempt under IC 14-33-7-4, for exceptional benefits to the property and further assessments pro rata for maintenance and operation of the works of improvement.
- (3) Issue bonds and short and long term notes.
- (4) Incur other debts and liabilities.
- (5) Exercise the power of eminent domain, both inside and outside the boundaries of the district, in accordance with this article or another eminent domain statute. In the exercise of this power, due care shall be taken to minimize interference with other public interests involved.
- (6) Make payments for the fair value of all property taken under eminent domain proceedings, and in cases that are appealed, make the payments into court and proceed promptly in placing the district plan in operation.
- (7) Institute any type of civil legal proceedings in a court having jurisdiction over the person or property in question.
- (8) Purchase or rent property.
- (9) Sell services or property that are produced incident to the district plan at a fair and reasonable price.

(10) Make contracts or otherwise enter into agreements with persons or federal, state, or local governmental agencies for construction, maintenance, operation, or security of any part of the district.

(11) Receive and disburse money.

(12) Lease land and other assets to municipalities, counties, and park boards of municipalities or counties, with the term and annual rental adequate to meet the district's repayment schedule for financing, if any, of the land and other assets leased. Municipalities, counties, and park boards of municipalities or counties may enter into leases without limitations of other statutes regarding the receipt of petitions, the duration of the term of the lease, or the distance of the land and other assets from the corporate boundaries. The municipalities, counties, and park boards may enter into leases:

(A) for terms as long as fifty (50) years;

(B) at locations that the municipalities, counties, and park boards determine would benefit the municipalities or counties; and

(C) upon terms, conditions, and covenants that are fair and reasonable.

The board may pledge the rental income from the lease as revenue for services or property produced incident to the operation of the district.

(13) Perform necessary construction and maintenance work as follows:

(A) Outside the district.

(B) Outside Indiana if:

(i) there is voluntary agreement on the part of persons outside Indiana; and

(ii) the work will confer benefits to the real property in the district in excess of costs and damages to be paid by the district.

*As added by P.L.1-1995, SEC.26. Amended by P.L.52-2012, SEC.1.*

#### **IC 14-33-6-14**

##### **Association of conservancy district**

Sec. 14. (a) A board may establish an association of Indiana conservancy districts and have the district become a member. The association must have as purposes the following:

(1) To assist in the assembly and dissemination of information in all aspects of the organization, financing, construction of improvements, operation, and maintenance of districts for the benefit of districts and persons desiring to establish districts.

(2) To inform persons interested in the functions of districts.

(3) Because a district is a statutory entity, to assist in recommending legislation to keep abreast of developing needs.

(b) The commission shall make the initial call to establish the association and may thereafter, together with Purdue University, give the association the reasonable assistance that the association requires.

(c) The association shall determine and elect officers and committees.

(d) Each member district may do the following:

(1) Pay reasonable annual dues.

(2) For the purpose of attending and engaging in the association's functions and affairs:

(A) employ agents and employees; and

(B) pay the expenses of the district's directors.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-7**

### **Chapter 7. Payment of Expenses**

#### **IC 14-33-7-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.97-2004 apply only to property taxes first due and payable after December 31, 2002.

*As added by P.L.220-2011, SEC.300.*

#### **IC 14-33-7-1**

##### **Special benefit taxes**

Sec. 1. (a) All the real property in the district, except the property that is exempt under section 4 of this chapter, constitutes a taxing district for the purpose of levying special benefit taxes to pay for the following:

- (1) The expenses of establishing the district.
- (2) General preliminary and administrative expenses.
- (3) The expenses of preparing the district plan.
- (4) The expenses of putting the district plan into operation by constructing the necessary works.
- (5) The expenses of operating and maintaining the district.

(b) The special tax:

- (1) equals the amount of benefits received; and
- (2) must be based on return for the benefits.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-2**

##### **Water supply, treatment, and distribution; assessments; tap-in fees**

Sec. 2. (a) This section applies if:

- (1) a petition filed for the establishment of a district states that:
  - (A) the purpose for establishing the district is providing water supply, including treatment and distribution for domestic, industrial, and public use;
  - (B) it is the election of the petitioners to accomplish the purpose under IC 14-33-20;
  - (C) a special benefits tax will not be levied; and
  - (D) all costs will be paid for by sources other than the levy of a special benefits tax; and

(2) the statements contained in subdivision (1) are incorporated by the court into the order establishing the district.

(b) The board may not levy a special benefits tax for the purpose described in section 1(a)(1) of this chapter. All costs of accomplishing the purpose must be paid for by the following:

- (1) Receipt of revenues from the sale of water.
- (2) An assessment against each tract of real property served by the resulting water distribution system for the lesser of the following:
  - (A) Seventy-five dollars (\$75).
  - (B) Five percent (5%) of the estimated average project cost

according to the district plan of serving each tract of real property.

(c) In addition, the district may charge a fair and reasonable tap-in fee for water service.

(d) An assessment is due within sixty (60) days after notice of the assessment. The assessment is not considered an exceptional benefit, but the provisions of this article pertaining to exceptional benefits apply to the collection and enforcement of the assessment.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-7-3**

#### **Special benefits tax rate**

Sec. 3. In all districts described in IC 14-33-9-4, the special benefits tax rate may not exceed six and sixty-seven hundredths cents (\$0.0667) on each one hundred dollars (\$100) of assessed valuation of property in the taxing district.

*As added by P.L.1-1995, SEC.26. Amended by P.L.6-1997, SEC.160.*

### **IC 14-33-7-4**

#### **Property exempt from special benefits tax**

Sec. 4. (a) This section applies to the following tangible property owned by or held in trust for the use of a church or religious society:

- (1) A building that is used for religious worship.
- (2) A building that is used as a parsonage.
- (3) The pews and furniture contained within a building that is used for religious worship.
- (4) The land upon which a building that is used for religious worship is situated.
- (5) The land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(b) Property is exempt from the special benefits tax that may be imposed under:

- (1) IC 14-33-6-13 and section 1 of this chapter; or
- (2) IC 14-33-21-5;

to the extent that the special benefits tax revenue will be used for the construction or improvement of a water impoundment project, including a lake, pond, or dam.

(c) To obtain an exemption for a parsonage, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemption. The affidavit must:

- (1) state:
  - (A) that all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and
  - (B) that none of the parsonages are being used to make a profit; and
- (2) be signed under oath or affirmation by the church's or religious society's head rabbi, priest, preacher, minister, pastor, or designee of the official church body.

*As added by P.L.1-1995, SEC.26. Amended by P.L.264-2003, SEC.13.*

#### **IC 14-33-7-5**

##### **Additional revenue**

Sec. 5. The expenses and obligations of the district may also be paid from any of the following:

- (1) The receipt of gifts from any source.
- (2) The receipt of money from the federal or state government.
- (3) The receipt of revenue from the sale of services or property produced incident to the accomplishment of a purpose for which the district is established.
- (4) The collection of assessments from land that receives exceptional benefits from the operation of the district plan.
- (5) The collection of assessments for maintenance and operation of the works of improvement.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-6**

##### **Notice costs and court costs**

Sec. 6. (a) The:

- (1) cost of notice, including publication and mailing; and
- (2) other costs of the court in the proceedings to establish the district;

are payable out of the general money of the county in which the court is sitting, without an appropriation having been made. The court shall order the county auditor to issue a warrant for the payment.

(b) If the petition is dismissed, the costs shall be:

- (1) collected from the petitioners or the sureties of the petitioners; and
- (2) repaid to the county.

(c) If the district is established, the board shall repay the county from the first money collected from the levy of a tax or the collection of an assessment.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-7**

##### **Costs of establishing district; loans and advances**

Sec. 7. (a) To pay the costs of establishing a district, including general, legal, and administrative costs and costs incident to preparing the district plan, money may be obtained from one (1) or a combination of the following methods:

- (1) Gifts, loans, or grants from a state or federal agency, or both.
- (2) Gifts from any source.
- (3) The collection of the special benefit tax.
- (4) Borrowing from private or public sources in anticipation of the collection of the tax.
- (5) Advances from the general fund of the county under section 15 of this chapter.
- (6) Borrowing from the economic development fund created by

IC 5-28-8 for any of the purposes in IC 14-33-1-1.

(7) Borrowing from the flood control revolving fund created by IC 14-28-5 for any of the purposes in IC 14-33-1-1.

(b) All persons, agencies, and departments charged with the administration and supervision of funds such as those created by IC 5-28-8 and IC 14-28-5 may make loans and advances to a district. The procedures, terms, and conditions of the loans must be the same as provided in the statutes establishing the funds but shall be modified and supplemented to fit this article to facilitate the financing of districts.

(c) This section does not preclude the borrowing of money for the following:

(1) Establishing the district.

(2) General, legal, and administrative costs.

(3) Costs incident to preparing the district plan in conjunction with borrowing of money to pay construction costs.

*As added by P.L.1-1995, SEC.26. Amended by P.L.4-2005, SEC.127.*

### **IC 14-33-7-8**

#### **Fiscal year**

Sec. 8. The fiscal year of a district is the calendar year.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-7-9**

#### **Amended district plan; expenses**

Sec. 9. If the board is ordered to prepare an amended district plan, the board may use any source of money provided in section 7 of this chapter to defray the expense, which is a proper operating expense. The board may use for this purpose a current operating surplus available in the year the board is ordered to amend the district plan. The board may include the estimated expense of preparing an amended district plan in the budget for operating expenses in the next year.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-7-10**

#### **Loans from federal agencies for works of improvement**

Sec. 10. (a) The board may apply to the federal Farmers Home Administration, the United States Department of Housing and Urban Development, or any other federal agency authorized to make loans for works of improvement for a long term or short term loan to cover the following:

(1) Expenses of establishing the district.

(2) General, legal, and administrative expenses.

(3) Costs of engineering or other costs of preparing the district plan.

(4) Costs of putting the district plan into effect by the necessary construction, maintenance, and operation of the works of improvement that have been authorized by the approval of the district plan.

(5) Refinancing a loan whose proceeds have been used for any of the purposes described in this subsection.

(b) A loan under this section:

(1) may be evidenced by one (1) installment note or by a series of notes; and

(2) may be secured by:

(A) revenues; or

(B) the collection of the special benefits tax levied on the real property in the district.

If a loan is secured by a pledge of collection of the tax, the loan may be paid in whole or in part by revenues or the collection of assessments.

(c) If the board decides not to evidence the financing with a federal agency by an installment note or series of notes and instead prepares a bond issue, the bond issue may, in whole or in part, be offered for sale to the federal agency without:

(1) a public offering; or

(2) the securing of competitive bids on the bond offering.

(d) Repayment of a loan begins at the time upon which the board and the federal agency agree. The:

(1) amount of interest;

(2) time of making payments of interest; and

(3) interval at which interest must be paid;

are subject to the agreement of the parties.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-7-11**

#### **Petition for approval of financial commitments**

Sec. 11. (a) Before making firm financial commitments under section 10 of this chapter with a federal agency, the board must file a petition for approval of the proposed action in the court. The petition must state:

(1) the purpose;

(2) the amount; and

(3) the terms;

of the proposed loan.

(b) The court shall set a date for a hearing, giving priority to the hearing in determining the date. However, the court must allow at least twenty-one (21) days for interested persons to file exceptions. The court shall order notice for the hearing as the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business. The notice must state in summary form the contents of the petition.

(c) If at the hearing the court finds that:

(1) the loan as proposed in the petition is necessary for the accomplishment of the purpose of the district; and

(2) the terms and conditions are reasonable and probably are as beneficial to the district as would be obtainable in private, competitive financial markets;

the court shall approve the petition and authorize the board to make firm commitments for the loan.

(d) Upon approval by the court, the board may levy the special benefits taxes necessary for the repayment of the loan.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-12**

##### **District plan to include federal agency agreements**

Sec. 12. The board shall include agreements made with a federal agency under section 10 of this chapter in the district plan if agreements have been made at the time of submission of the plan to the commission.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-13**

##### **Special benefits tax levied although district plan abandoned**

Sec. 13. The levy of the tax for special benefits may be made although an attempt to formulate a district plan has been abandoned because of:

- (1) changed conditions;
- (2) impracticability; or
- (3) other reasons;

if money is necessary to meet valid obligations of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-14**

##### **Note issuance**

Sec. 14. (a) In anticipation of the money to be received from any source, a board may borrow money by issuing notes. The notes:

- (1) must mature in not more than two (2) years; and
- (2) may be renewed for periods of not more than two (2) years.

(b) The borrowing may be by direct negotiation with any of the following:

- (1) A bank or savings association licensed to do business in Indiana.
- (2) An agent of the state or federal government.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-15**

##### **County auditor issuing warrants for money**

Sec. 15. (a) To pay all:

- (1) necessary expenses of establishing a district;
- (2) general, legal, and administrative costs; and
- (3) costs incident to preparing the district plan;

the court may order the auditor of the county in which the court is sitting to issue warrants to the district for money necessary to meet these expenses.

(b) If at least two (2) counties have land in the district, the court shall order the auditor of each other county to reimburse the paying county from the other county's general fund by issuing warrants in

amounts that the court estimates will be reasonable in relation to the estimated benefits that the land in each county will receive from the operation of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-16**

##### **Necessary expenses**

Sec. 16. (a) The necessary expenses of establishing a district include the following:

- (1) Costs of printing, publication, mailing, surveying, and abstracting.
- (2) Court costs.
- (3) Reasonable attorney's fees for establishing the district.
- (4) Reasonable engineering fees for preliminary studies.

(b) General, legal, and administrative costs and costs incident to preparing a district plan include the following:

- (1) Payment of directors.
- (2) Secretarial services.
- (3) Transportation, administrative, engineering, and legal fees.
- (4) Printing, mailing, basic supplies, office equipment, and rental of office space.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-7-17**

##### **Repayment of money advanced to district**

Sec. 17. A district shall promptly repay any money that is advanced to the district from:

- (1) the general fund of a county; or
- (2) the economic development fund created by IC 5-28-8;

from money received through the collection of an authorized tax or assessment.

*As added by P.L.1-1995, SEC.26. Amended by P.L.4-2005, SEC.128.*

## **IC 14-33-8**

### **Chapter 8. Board of Appraisers**

#### **IC 14-33-8-1**

##### **Appointment; duties**

Sec. 1. At the time of making the order approving the district plan but not later than thirty (30) days following the completion of construction of the works of improvement provided for in the district plan, and upon petition of the board or of a freeholder whose land is subject to the special benefits tax, the court shall appoint three (3) competent, disinterested persons to constitute the board of appraisers of the district. The board of appraisers has one (1) or both of the following functions as the court in the order appointing the appraisers directs:

(1) To determine the damages or limitation on special benefits to real property in the district resulting from the carrying out of the district plan, including the compensation to be paid the owners and others having an interest in land that is needed by the district, either in fee simple or by subjection to an easement. The land or easement is considered appropriated to the use of the district by the order of the court approving the district plan, which is implemented by construction drawings, specifications, and refined cost estimates on that part of the works of improvement that damage the land. If a district plan is implemented later, the land is considered appropriated to the use of the district by the resolution of the board of directors confirming the adoption of the construction drawings, specifications, and refined cost estimates as provided by IC 14-33-6-10. The board of appraisers shall base the appraisal of damages on the date the land is considered appropriated. Land or easements are considered appropriated by the order of the court or the resolution of the board of directors only if the owner of the land is notified in the manner provided by IC 14-33-2-12 stating that the district plan or construction drawings and specifications contemplate the appropriation of the owner's land or easement.

(2) To determine the existence and amount of exceptional benefits that accrue to real property in the district due to the execution of the district plan.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-2**

##### **Oath; quorum; vacancies; compensation**

Sec. 2. (a) Before beginning the duties, each appraiser must take and subscribe to an oath that the appraiser will faithfully and impartially discharge the duties.

(b) A majority of the board of appraisers constitutes a quorum, and a quorum is sufficient for decisions.

(c) Each appraiser holds office until excused by the court, and the court shall fill all vacancies in the board of appraisers resulting from

being excused, resignation, or inability to serve.

(d) The court shall determine and approve the compensation of each of the appraisers and shall base the compensation on the work performed and the professional qualifications of each appraiser. The compensation shall be paid out of district money.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-8-3**

#### **Necessary assistance furnished to appraisers**

Sec. 3. The board of directors shall furnish necessary assistance to the appraisers, including the services of the attorney, engineer, secretary, and other agents and employees of the board of directors.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-8-4**

#### **Damages; eminent domain**

Sec. 4. If the board of appraisers has the function of determining damages, the board of directors may continue to make settlement directly with the persons who own or have an interest in all or any real property needed by the district. The board of directors also may acquire any needed real property or easement by eminent domain proceedings according to statute.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-8-5**

#### **Appraisal of damages to property**

Sec. 5. (a) In determining damages, the board of directors shall give the appraisers the description of land needed in fee simple and of land over which an easement is needed. If an easement is designated by the board of directors, the purpose and extent of the easement must be definitely stated.

(b) The appraisers shall do the following:

- (1) Appraise the real property and the amount of damages.
- (2) Make a report to the court of the findings.

(c) If the board of appraisers does not return an appraisal of damages to real property, that constitutes a finding that damages will not be sustained by that real property.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-8-6**

#### **Determination of exceptional benefits**

Sec. 6. If the board of appraisers has the function of determining the existence and amount of exceptional benefits, the appraisers shall become familiar with the details of the district plan and the real property affected by the district plan. In making the determinations, the appraisers must give due consideration and credit to the following:

- (1) Any other works of improvement already constructed or under construction.
- (2) Contributions that form a useful part of the work of the

district according to the district plan.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-7**

##### **Exceptional benefits from flood prevention and control or improved drainage**

Sec. 7. (a) In determining the existence and amount of exceptional benefits resulting from the accomplishment of the purpose of:

- (1) flood prevention and control;
- (2) improving drainage; or
- (3) both;

for a district having a district plan incorporating a watershed work plan prepared in cooperation with the United States Secretary of Agriculture under the federal Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 et seq.), the appraisers shall be guided in their determination of what real property receives exceptional benefits by the studies of the United States Natural Resources Conservation Service regarding land to be benefited that have been incorporated onto a map of the watershed and made a part of the district plan.

(b) The only other real property that the appraisers may consider as exceptionally benefited is real property that has a higher and better use as an incidental result of the works of improvement.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-8**

##### **Exceptional benefits from sewage collection, treatment, and disposal**

Sec. 8. (a) In determining the existence and amount of exceptional benefits resulting from the purpose of sewage collection, treatment, and disposal, the appraisers shall consider as exceptionally benefited the following:

- (1) Real property that would not pay special benefits taxes for the support of the system.
- (2) Real property that requires greater capacity of collecting or treating equipment because of intensive use.

(b) The determination of exceptional benefits from the accomplishment of this purpose is always subject to amendment or supplement as a result of changed land use.

(c) Exceptional benefits may be assessed on an annual basis as long as the exceptional conditions exist.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-9**

##### **Report of findings**

Sec. 9. The board of appraisers shall make a report of the findings to the court as the court orders. All the findings concerning both damages and exceptional benefits may be made in one (1) report or in separate reports at different times. In addition, the report may be made for damages or exceptional benefits, or both, periodically as the

district plan is implemented.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-10**

##### **Contents of report**

Sec. 10. (a) The report of the board of appraisers must state the following:

- (1) The name of the record owner of the real property appraised.
- (2) If damages are assessed, the following:
  - (A) The names of other persons entitled to share in the award.
  - (B) The best known mailing address of the persons.
  - (C) A description of the property appraised.
  - (D) The amount of damages or exceptional benefits, or both.

(b) An error in:

- (1) the names or addresses of the owners or other persons; or
- (2) the descriptions;

does not invalidate the appraisal or the levy of assessments if a sufficient description is given to identify the land.

(c) A majority of the board of appraisers shall sign the report.

(d) One (1) copy of the report shall be filed in the office of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-11**

##### **Sewer main installation as exceptional benefit**

Sec. 11. The board of appraisers may report, subject to the finding and approval of the court, that an increase in fair market value of real property caused by the installation of a sewer main through or adjacent to the property is an exceptional benefit to the property regardless of the use of the sewer main by the owners or occupiers of the property.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-8-12**

##### **Hearing; notice**

Sec. 12. (a) Upon the filing of each report of the board of appraisers with the court, the court shall set a date for hearing on the report.

(b) The court shall order notice of the hearing on the report of the board of appraisers as follows:

- (1) By at least one (1) publication in one (1) newspaper of general circulation in each county having land in the district at least thirty (30) days before the date of the hearing on the report.
- (2) To each freeholder owning land named in the report and to each person who is named in the report by mail at least twenty (20) days before the date of the hearing, first class postage prepaid, according to the records of the county auditor.
- (3) By mail to the office of the district at least twenty (20) days before the date of the hearing, first class postage prepaid.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-8-13**

**Acceptance of appraisal; acquiescence in failure to appraise damages; exceptions**

Sec. 13. (a) A freeholder who owns land in the district or any person may accept the appraisal of the board of appraisers of exceptional benefits or damages to real property:

- (1) to be taken or used; and
- (2) in which the person is an interested person.

(b) The same owner or person may acquiesce in the failure of the board of appraisers to appraise damages in favor of the interested person. The owner or person is considered to have acquiesced in the failure to appraise damages unless, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, the interested person files an exception to the appraisers' report specifying in the exceptions:

- (1) the appraisal of exceptional benefits or damages; or
- (2) the land or easement to be taken in which the owner or person is an interested person.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-8-14**

**Exceptions to board of appraisers' report**

Sec. 14. The board of directors may, within the time limit prescribed by the notice of hearing on the report of the board of appraisers, file exceptions to the report of the board of appraisers specifying in the exceptions:

- (1) the appraisal of exceptional benefits or damages; or
- (2) the land or easement to be taken that the board of directors complains as being excessive.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-8-15**

**Board's determinations as prima facie correct**

Sec. 15. The determinations of the board of appraisers is considered prima facie correct. A person excepting is entitled to open and close.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-8-16**

**Amendment of board's report; court order**

Sec. 16. (a) At the hearing the court may order the report of the board of appraisers amended to conform with the evidence. The court then shall enter an order:

- (1) dismissing the report; or
- (2) approving the report.

(b) An appeal of the order may be made to the supreme court within thirty (30) days.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-8-17**

**Approval of report; payment of appraisal; possession of appropriated property**

Sec. 17. When the report of the board of appraisers regarding damages is approved by the court, the board of directors may do the following:

- (1) Pay to the clerk of the court the amount of the appraisal.
- (2) Take possession of and hold the interest in the real property appropriated.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-9**

### **Chapter 9. Budget and Tax Levy Procedures**

#### **IC 14-33-9-1**

##### **District budget**

Sec. 1. (a) Except as provided in IC 6-1.1-17-20, the budget of a district:

(1) must be prepared and submitted:

(A) at the same time;

(B) in the same manner; and

(C) with notice;

as is required by statute for the preparation of budgets by municipalities; and

(2) is subject to the same review by:

(A) the county board of tax adjustment; and

(B) the department of local government finance;

as is required by statute for the budgets of municipalities.

(b) If a district is established in more than one (1) county:

(1) except as provided in subsection (c), the budget shall be certified to the auditor of the county in which is located the court that had exclusive jurisdiction over the establishment of the district; and

(2) notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment and, after December 31, 2008, the fiscal body of each county having jurisdiction.

(c) If one (1) of the counties in a district contains either a first or second class city located in whole or in part in the district, the budget:

(1) shall be certified to the auditor of that county; and

(2) is subject to review at the county level only by the county board of tax adjustment and, after December 31, 2008, the fiscal body of that county.

*As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.374; P.L.224-2007, SEC.106; P.L.146-2008, SEC.428; P.L.182-2009(ss), SEC.301.*

#### **IC 14-33-9-2**

##### **Operation and maintenance expenses**

Sec. 2. (a) The board shall budget annually the necessary money to meet the probable expenses of operation and maintenance of the district, including the following:

(1) Repairs.

(2) Fees.

(3) Salaries.

(4) Depreciation on all depreciable assets.

(5) Rents.

(6) Supplies.

(b) Subject to any budget review and approval required under this chapter, the board may add not more than ten percent (10%) of the total for contingencies.

*As added by P.L.1-1995, SEC.26. Amended by P.L.182-2009(ss), SEC.302.*

### **IC 14-33-9-3**

#### **Deductions from operation and maintenance expenses**

Sec. 3. (a) The board shall deduct from the operation and maintenance expenses estimated under section 2 of this chapter the following:

- (1) Any revenue actually received during the current year.
- (2) Other money not obligated to paying or protecting the bonds or notes of the district.

(b) The board shall carry forward the balance after making the deduction required by subsection (a).

(c) The board shall next determine the amount of interest due and the principal amount of bonds maturing the second year after the year in which the board is meeting. To this amount the board shall add five percent (5%) in the first year the board meets with bonds outstanding to provide for contingencies. After that time and until all bonds are retired, the board shall add the necessary amount to maintain a five percent (5%) contingency reserve.

(d) If the board has been forced to borrow money for a short term for a legitimate purpose, the board shall also determine the amount of principal and interest due on the loan.

(e) The board shall then total the balance.

(f) From the assessment roll, the board shall then determine the amount of unpaid installments due in the next year on assessments that have been made and deduct this from the total. The board shall then determine the necessary levy of the special benefits tax to provide money to meet the expenses thus calculated.

(g) After review by the department of local government finance as provided in section 1 of this chapter, the board of directors shall certify to the auditor of each county for collection the levy of the tax and the installment of any assessment.

*As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.375.*

### **IC 14-33-9-4**

#### **Hearing on budget for counties with a population of 300,000 to 400,000**

Sec. 4. (a) This section applies to districts:

- (1) established after July 1, 1983; and
- (2) containing all or part of a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) Each year the board shall submit two (2) copies of the estimated budget formulated by the district for the next budget year to the fiscal body of the county described in subsection (a) at least ten (10) days before the board holds the public hearing on the estimated budget under IC 6-1.1-17-3.

(c) The fiscal body:

- (1) shall hold a public hearing on the budget; and
- (2) may lower but may not increase any item in the estimated budget.

Notice of the hearing shall be published in accordance with IC 5-3-1, except that notice must be published at least five (5) days before the hearing date.

(d) The county fiscal body shall deliver two (2) copies of the budget approved under subsection (c) to the board at least two (2) days before the date fixed for the public hearing on the budget held by the board under IC 6-1.1-17-3. The board may not approve a total budget in excess of the amount approved by the county fiscal body.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-9-5**

##### **Treatment of tax levy**

Sec. 5. (a) Upon approval by the department of local government finance, the board of directors shall certify the tax levy to the auditor of each county having land in the district.

(b) The auditor of each county shall have the levy entered on the tax records of the county treasurer for collection.

(c) The county treasurer shall collect the tax at the same time as other property taxes are collected.

(d) After collection, in June and December, the auditor of each county shall issue a warrant on the county treasurer to transfer the money collected to the board of directors.

*As added by P.L.1-1995, SEC.26. Amended by P.L.90-2002, SEC.376.*

#### **IC 14-33-9-6**

##### **Application of chapter**

Sec. 6. Sections 1 and 5 of this chapter apply to:

- (1) budgets;
- (2) levy of taxes; and
- (3) collection of taxes;

both before and after a district plan is approved.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-9-7**

##### **Special benefits tax**

Sec. 7. The special benefits tax levied by a district is a primary lien on real property in the district equal to other taxes imposed on real property. The same provisions of other taxes regarding collections, penalties, and sale of property for delinquencies apply to this tax.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-9-8**

##### **District's property and income exempt**

Sec. 8. A district's property and income are exempt from taxation by the state and political subdivisions of the state.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-9-9**

**District not considered municipal corporation**

Sec. 9. A district is not considered a municipal corporation with respect to limitations on the amount of the district's indebtedness irrespective of how that indebtedness is secured in a pledge of the district.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-9-10**

**Special benefits tax; statement processing charge**

Sec. 10. A conservancy district may require a statement processing charge on a special benefits tax statement. A special benefits tax liability assessed under this chapter of less than ten dollars (\$10) on a parcel may be increased to not more than ten dollars (\$10). The difference between the actual liability and the amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.

*As added by P.L.6-1997, SEC.243.*

## **IC 14-33-10**

### **Chapter 10. Assessments**

#### **IC 14-33-10-1**

##### **Assessment roll**

Sec. 1. (a) If the appraisers have determined that there are exceptional benefits to real property, the board of directors shall prepare an assessment roll from the appraisers' report as approved by the court. The assessment roll consists of the following:

- (1) A description of each parcel of real property exceptionally benefited.
- (2) The name of the owner as listed on the tax duplicate or described in the appraisers' report as approved by the court.
- (3) The amount of the assessment.

(b) The assessment roll shall be distributed as follows:

- (1) One (1) copy shall be recorded in the office of the recorder of each county in which real property exceptionally benefited is located.
- (2) One (1) copy shall be filed with the auditor of each county in which land of a district exceptionally benefited is located.
- (3) One (1) copy shall be kept on file in the office of the district.

(c) Assessments for exceptional benefits are a lien upon each parcel of real property against which the exceptional benefits are assessed from the date that the assessment is approved by the court.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-10-2**

##### **Payment**

Sec. 2. (a) The board shall give notice by publication at least two (2) times at weekly intervals:

- (1) in two (2) newspapers of general circulation in each county having land in the district; or
- (2) in one (1) newspaper in the county if there is only one (1) newspaper of general circulation;

that assessments are due and payable within sixty (60) days after the date of the last publication.

(b) Payment of assessments shall be made at:

- (1) the office of the board; or
- (2) if the court orders, the offices of the treasurers of the counties.

(c) The owners of real property assessed for exceptional benefits are entitled to make payment in full unless exceptional benefits are assessed annually and paid with special benefits taxes to the county treasurer. If payment is made in full, the board shall do the following:

- (1) Note the payment in the assessment roll in the board's office.
- (2) Give a receipt to the landowner paying the assessment.
- (3) Enter satisfaction of the lien of the assessment in the appropriate record in the office of the recorder where the assessment is recorded.

(d) The payment of the assessment does not relieve the real

property from being subject to the following:

- (1) A special benefits tax.
- (2) An annual assessment for maintenance and operation based upon the original exceptional benefit assessment.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-10-3**

#### **Installment payments**

Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the interest charged on delinquent property tax payments under IC 6-1.1-37-9(b). All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

*As added by P.L.1-1995, SEC.26. Amended by P.L.67-2006, SEC.13; P.L.113-2010, SEC.96.*

### **IC 14-33-10-4**

#### **Delinquent tax or assessment**

Sec. 4. (a) An assessment is a lien on the real property assessed equal to taxes levied on the property. If an installment of an assessment is not paid when due, the real property is subject to the same rate of interest and penalty as is provided by statute for delinquent taxes. If an installment or assessment is not paid in the amount and at the time when due, the board shall prepare, certify, and file with the auditor of the county in which the real property assessed is located the amount of the assessment against the real property with the default in payment.

(b) The county auditor shall place the amount, together with interest and penalty, upon the tax duplicate to be collected as state and county taxes are collected at the next date for the semiannual payment of taxes. If the assessment, interest, and penalty are not paid at that time, the real property is subject to sale as is provided by statute for the sale of real property on which there are delinquent taxes. Upon the sale the proceeds shall be prorated equally among the assessment and any delinquent taxes. A sale for a delinquent tax or delinquent assessment does not extinguish the assessment.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-11**  
**Chapter 11. Bonds**

**IC 14-33-11-1**

**Purpose of bonds**

Sec. 1. The board may issue bonds to pay the following:

- (1) The cost of the works that are provided in the district plan.
- (2) Necessary engineering, legal, and administrative fees.
- (3) The repayment or refinancing of a loan.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-11-2**

**Total amount of bonds**

Sec. 2. The total amount of bonds issued may not exceed the cost less the following:

- (1) Money on hand from the collection of assessments.
- (2) Money on hand or obligated to the district by the state or federal government.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-11-3**

**Method of issuance**

Sec. 3. Bonds may be issued by either of the following methods:

- (1) Solely against the revenues expected to be produced by the operation of the district. The board may make proper contractual arrangements to pay the bonds from the net revenues produced.
- (2) Against the real property of the district in anticipation of the collection of special benefits taxes. Bonds issued against the real property of the district may be paid in part:
  - (A) by revenues derived from reasonable charges for services or property produced incident to the operation of the district;  
or
  - (B) from the collection of assessments for exceptional benefits.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-11-4**

**Payment of bonds**

Sec. 4. (a) Revenue bonds issued for the payment of works of improvement for the collection, treatment, and disposal of sewage and other liquid wastes may provide that the principal and interest shall be paid:

- (1) solely from the net revenue of the sewage works, which is gross revenues after deduction only for the reasonable expenses of operation and maintenance; or
- (2) from a combination of net revenue and other money available to a district by:
  - (A) levy;
  - (B) special benefits taxes; or
  - (C) assessment of exceptional benefits.

- (b) The board may covenant with the holders of the bonds to pay:
- (1) a certain percentage of principal and interest from the revenue;
  - (2) a certain percentage from the other money to maintain a reasonable reserve from the other money that may be used for payment of principal and interest if the revenue is not sufficient;
  - or
  - (3) both.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-11-5**

##### **Restrictions in issuance**

Sec. 5. (a) Bonds:

- (1) may be issued in any denomination;
- (2) may bear interest at any rate, with interest payable on January 1 and July 1;
- (3) shall be issued in not less than ten (10) series and not more than fifty (50) series; and
- (4) are payable, one (1) series each year, beginning on January 1 of the second year following the date of issue and subject to the following:
  - (A) If the bond issue is authorized in a year after the regular levymaking period, the first series matures on January 1 of the third succeeding year.
  - (B) The balance of the issue is payable at annual intervals.
  - (C) The annual maturities do not have to be in an equal amount.

(b) The bonds issued are exempt from taxation by the state.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-11-6**

##### **Negotiability, registration, advertisement, and sale**

Sec. 6. Bonds issued:

- (1) must be negotiable;
- (2) may be registered; and
- (3) shall be advertised and sold in the manner provided by general statutes concerning the sale of bonds.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-11-7**

##### **Interest of directors; disclosure**

Sec. 7. (a) This section applies to a district:

- (1) that has been established with a few freeholders or even only one (1) freeholder; and
- (2) for which the accomplishment of the district's purposes is necessary and desirable primarily for persons purchasing and using the land after subdivision and development.

(b) Notwithstanding other statutes, the board may enter into a contract agreement, before the award of bonds, with a person directly or indirectly interested in bidding on or purchasing the bonds if

approval is received from the Indiana utility regulatory commission after a petition is filed by the board containing disclosure of the interest that any of the directors have in the land involved and in the person who is interested in bidding on or purchasing the bonds.

(c) The Indiana utility regulatory commission shall give approval if the Indiana utility regulatory commission finds that:

- (1) full disclosure has been made; and
- (2) persons who are using or will be using the land will probably receive the benefits from the proposed works of improvement at a fair and reasonable cost comparable to the cost for benefits from the improvements in similar locations and situations.

Profits or loss to the person bidding on the bonds may not be the determining factor in approval.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-11-8**

#### **Notice of sale; right to remonstrate against or vote against bonds**

Sec. 8. (a) Before offering bonds for sale, the board shall give notice in the same manner as is required by IC 6-1.1-20 for the sale of bonds by municipal corporations.

(b) Persons affected are entitled to:

- (1) remonstrate against issuance of the bonds (in the case of a preliminary determination made before July 1, 2008, to issue bonds); or
- (2) vote on the proposed issuance of bonds in an election on a local public question (in the case of a preliminary determination made after June 30, 2008, to issue bonds).

(c) An action to question the validity of the bonds may not be instituted after the date fixed for sale, and the bonds are incontestable after that time.

*As added by P.L.1-1995, SEC.26. Amended by P.L.146-2008, SEC.429.*

### **IC 14-33-11-9**

#### **Denial of right to issue bonds**

Sec. 9. If the board is denied the right to issue bonds as a result of remonstrance proceedings or an election on a local public question held under IC 6-1.1-20-3.6:

- (1) all contracts let by the board for work to be paid from the sale of bonds are void; and
- (2) no liability accrues to the district or to the board.

*As added by P.L.1-1995, SEC.26. Amended by P.L.146-2008, SEC.430.*

## **IC 14-33-12**

### **Chapter 12. Improvements Benefiting Only Certain Property**

#### **IC 14-33-12-1**

##### **Application of chapter**

Sec. 1. This chapter applies if the board determines at the time of the adoption of the district plan that the characteristics of the district are such that the district plan can best be implemented in certain parts by the development of works of improvement that are:

- (1) of benefit solely to abutting or proximate properties in the district; and
- (2) not of benefit to all the property in the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-2**

##### **Districts subject to chapter**

Sec. 2. (a) In a district subject to this chapter:

- (1) the district plan must so state; and
- (2) notice to this effect shall be made a part of all notices regarding the approval and implementation of the district plan.

(b) At the hearing on the district plan, the court shall make a finding on this question.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-3**

##### **Appraisers**

Sec. 3. (a) Concurrent with the preparation of detailed construction drawings, specifications, and refined cost estimates necessary to implement the district plan, the board shall employ competent appraisers to do the following:

- (1) Appraise the real property that will be benefited by the implementation of the district plan.
- (2) Assign to each property the property's proportional share of the estimated cost of the improvement, including necessary engineering and legal fees.

(b) The appraisers shall report the information determined under subsection (a) in written tabular form to the board.

(c) The board shall tentatively adopt the findings of the appraisers in the same resolution by which the detailed construction drawings, specifications, and refined cost estimates are adopted. Notice of the hearing shall be mailed to the owner of each tract of real property found to be benefited.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-4**

##### **Filing resolution; notice**

Sec. 4. (a) Upon confirmation of the resolution, the board shall file the resolution together with the detailed construction drawings, specifications, refined cost estimates, and appraisers' findings in court.

(b) The court shall set a date for a hearing and order notice that the court considers necessary, but publication must at least be made in each county having land in the district in accordance with IC 5-3-1 as if the notice affected county business.

(c) At the hearing the court shall order the resolution approved, rescinded, or modified.

*As added by P.L. 1-1995, SEC. 26.*

#### **IC 14-33-12-5**

##### **Powers and duties**

Sec. 5. (a) After approval by the court, the board shall let contracts or otherwise construct the works of improvement as implemented. The board shall exercise the same powers and discharge the same duties concerning the works of improvement as prescribed by statute for the board of public works, the board of finance, and other officers of a municipality concerning the following:

- (1) Liens for street improvements.
- (2) The payment of street improvement assessments by installments.
- (3) The issuance of Barrett Law bonds and coupons to anticipate the collection of assessments.

(b) The duties of the treasurer of a county in which there is real property affected also apply to the following:

- (1) The lien.
- (2) The collection and enforcement of the lien.
- (3) The payment of assessments for the construction of works of improvement under:
  - (A) this chapter; and
  - (B) IC 13-3-3-86 (before its repeal).

(c) Statutes concerning:

- (1) the enforcement of assessment liens for street improvements in actions of a municipality enforcing the liens and attorney's fees in those actions;
- (2) the procedure;
- (3) the conduct of sales by the sheriff under decrees of foreclosure;
- (4) the execution of certificates and deeds; and
- (5) all matters of a similar nature regarding street improvements and collection of assessments in a municipality, including the rights of contractors, assignees, and bondholders;

apply to the enforcement of assessments made for the construction of works of improvement under this chapter or under IC 13-3-3-86 (before its repeal) as well as the collection of bonds or coupons issued under this chapter or under IC 13-3-3-86 (before its repeal).

(d) The board may do the following:

- (1) Issue the bonds in anticipation of the collection of assessments and coupons evidencing interest at any rate directly to the contractor at the completion of the work.
- (2) Issue directly to engineers and attorneys bonds and coupons in payment of fees incident to the work of improvement.

(e) Notwithstanding other statutes incorporated into this chapter, a person who agrees to pay the person's assessment in installments after the bonds are issued:

- (1) must pay interest for the full term of ten (10) years; and
- (2) may prepay the principal and remaining interest due.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-6**

##### **Mutually exclusive provisions**

Sec. 6. (a) The provisions of this chapter concerning:

- (1) assessments;
- (2) the nature of the resulting lien;
- (3) collection; and
- (4) issuing bonds and coupons in anticipation of the collection of the assessment;

are mutually exclusive from other sections of this article that relate to the same subject matter.

(b) The construction and incidental engineering and legal fees of that part of works of improvement contained in the district plan shall be paid for and financed according to this chapter and other statutes incorporated into this chapter and not according to other provisions of this article only if all the following conditions are met:

- (1) The board determines and states as a part of the district plan that certain parts of the works of improvement will be of benefit solely to abutting or proximate properties and not of benefit to all the property in the district.
- (2) Notice of the determination is given as is provided in this chapter.
- (3) The court makes an affirmative finding to this effect at the hearing on the district plan.

(c) If the conditions described in subsection (b) are not met, the costs and financing of the construction of the works of improvement shall be done according to other provisions of this article.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-12-7**

##### **Inapplicable provisions**

Sec. 7. Other provisions of this article concerning assessments and bond issues do not apply to this chapter. In addition, provisions of this chapter concerning assessments and bond issues do not apply to other chapters of this article.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-13**

**Chapter 13. Damages**

**IC 14-33-13-1**

**Damaging or removing reference marks**

Sec. 1. A person shall not willfully damage or remove bench marks, witness marks, stakes, or other reference marks placed by:

- (1) the surveyors or engineers of the district; or
- (2) contractors in constructing the work of the district.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-13-2**

**Liability for damages to district works**

Sec. 2. (a) A person is liable for damages done to works of a district by:

- (1) the person;
- (2) agents of the person;
- (3) employees of the person; or
- (4) livestock owned by the person.

(b) A person shall not damage the works, improvements, or property of a district. A person who violates this subsection is liable for all damages and costs.

(c) The board may repair damages at the expense of the person committing the damage.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-14**

### **Chapter 14. Cumulative Maintenance Fund**

#### **IC 14-33-14-1**

##### **Applicability of chapter**

Sec. 1. This chapter applies to a district having channel improvements, levees, and water retarding or impoundment structures.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-14-2**

##### **Exemptions**

Sec. 2. This chapter does not apply to the following:

(1) A water supply structure or the water supply part of a multiple purpose structure if provision has been made for maintenance from revenues of a water system.

(2) Sewage works.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-14-3**

##### **"Fund" defined**

Sec. 3. As used in this chapter, "fund" refers to a cumulative maintenance fund established under this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-14-4**

##### **Establishment of fund**

Sec. 4. A district shall establish a cumulative maintenance fund in the year following commencement of construction or assumption or maintenance of the channel improvements, levees, and water retarding or impoundment structures so that the works of improvement are adequately maintained.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-14-5**

##### **Budget and appropriations to fund**

Sec. 5. (a) The board shall budget and appropriate annually to the fund an amount equivalent to ten percent (10%) of the annual cost of maintenance for the works of improvement as the cost is:

(1) stated in the district plan; or

(2) adjusted under section 8 of this chapter.

(b) Money accumulated in the fund may be used for emergency or unusually expensive maintenance of the works of improvement.

*As added by P.L.1-1995, SEC.26. Amended by P.L.228-2003, SEC.1.*

#### **IC 14-33-14-6**

##### **Suspension of appropriations**

Sec. 6. (a) If an amount equivalent to two (2) times the annual cost of maintenance of the works of improvement, as stated in the district plan or as the cost is adjusted under section 8 of this chapter, has

accumulated in the fund, appropriations to the fund shall be suspended until the year that the amount in the fund is not more than equal to the annual cost of maintenance of the works of improvement as stated in the plan or the adjusted annual cost.

(b) The money in the fund may be invested and reinvested in whole or in part in accordance with IC 5-13-9.

*As added by P.L.1-1995, SEC.26. Amended by P.L.228-2003, SEC.2.*

#### **IC 14-33-14-7**

##### **Normal maintenance work budgeted**

Sec. 7. The appropriation to the fund does not relieve the board of the duty to budget annually the normal maintenance work anticipated during the next fiscal year.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-14-8**

##### **Adjusted annual cost of maintenance**

Sec. 8. (a) As used in this section, "cost index source" refers to the Engineering News Record Construction Cost Index, as published by McGraw Hill Construction or its successor.

(b) Before January 1, 2006, the board of a district may elect to adjust the annual cost of maintenance of the works of improvement as stated in the plan, as calculated in subsection (d), if the following conditions are met:

(1) The board has at a meeting adopted a resolution that sets forth:

(A) the annual cost of maintenance of the works of improvement as stated in the plan, and the year when the annual cost was stated in the plan; and

(B) the new, adjusted annual cost of maintenance of the works of improvement.

(2) The calculation under subsection (d) has been verified by either the state conservation engineer for the Natural Resources Conservation Service of the United States Department of Agriculture or a professional engineer licensed under IC 25-31-1.

(3) The board has provided a copy of the resolution to the department of local government finance (established by IC 6-1.1-30-1.1) within sixty (60) days of adoption.

(c) If the board of a district adopts a resolution under section (b)(1), a copy of the resolution must be included in the district's annual report, and a copy of the annual report must be provided to the local circuit court and the department of natural resources.

(d) The annual cost of maintenance of the works of improvement as stated in the plan of a district may be adjusted to an amount not to exceed the amount determined as follows:

STEP ONE: Determine the cost index from the cost index source for the most recent year.

STEP TWO: Determine the cost index from the cost index source for the year that the annual cost of maintenance of the

works of improvement was stated in the plan.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by the annual cost of maintenance of the works of improvement that is stated in the plan.

*As added by P.L.228-2003, SEC.3.*

## **IC 14-33-15**

### **Chapter 15. Dissolution Due to Loss of Benefit**

#### **IC 14-33-15-1**

##### **Petition**

Sec. 1. A district may be dissolved by the same procedure used to establish the district. The petition must set forth the change of circumstances that causes the district to lose the district's benefit.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-15-2**

##### **Prima facie evidence that district should be dissolved**

Sec. 2. If:

(1) the board fails to produce within two (2) years satisfactory evidence of progress in the preparation of the district plan; or  
(2) federal or state money, or both, contemplated in the petition for the establishment of the district appears to be unavailable;  
it is prima facie evidence that the district should be dissolved.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-15-3**

##### **Court ordering dissolution**

Sec. 3. If the court finds that a district is no longer of benefit, the court shall do the following:

- (1) Order the district dissolved.
- (2) Order the board to take necessary steps to terminate all activities of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-15-4**

##### **Final accounting and records filing**

Sec. 4. As the final action the board shall make an accounting to the court and file all records of the district with the court. The court shall then discharge the board.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-15-5**

##### **District with bonds or notes outstanding**

Sec. 5. The court may not dissolve a district if the district has bonds or notes outstanding. If the court finds that the activities of the district should cease, the court shall order the district to function only for the purpose of:

- (1) certifying necessary assessments or taxes; and
- (2) collecting the assessments and taxes;

to pay off the financial obligations of the district. When all financial obligations are paid, the court may order the district dissolved.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-16**

### **Chapter 16. Dissolution Due to Lack of Construction**

#### **IC 14-33-16-1**

##### **Applicability of chapter**

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to a district if construction of works of improvement has not begun within six (6) years after the district plan is approved by the circuit court.

(b) Even if the construction of works of improvement has not begun within six (6) years after the district plan of a district was approved, this chapter does not apply to the district if the circuit court having jurisdiction over the district under IC 14-33-2-9 determines that the board of directors of the district has, since the approval of the district plan, worked diligently and in good faith to resolve the matters that must be resolved before construction can begin.

*As added by P.L.1-1995, SEC.26. Amended by P.L.143-1997, SEC.1.*

#### **IC 14-33-16-2**

##### **Dissolution by election**

Sec. 2. A district may be dissolved by an election under this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-16-3**

##### **Petition**

Sec. 3. The freeholders of a district must present a petition to the board. The petition may be circulated and presented in separate parts, although all of the parts constitute a single petition. The petitioning freeholders must sign the petition, and the person who presents the petition must verify and certify the signatures upon oath. The petition must do the following:

- (1) Show the name and residence of each petitioner and the date of signature.
- (2) State that the petitioning freeholders desire an election on the question of whether to dissolve the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-16-4**

##### **Determination that petition bears proportion of signatures required**

Sec. 4. The board shall determine, in compliance with IC 14-33-2-2 and IC 14-33-2-3, whether the petition bears the same proportion of signatures of freeholders of the district as that section requires to initiate the proceedings to establish a district. If the board finds in the affirmative, the board shall without delay certify that fact to the court.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-16-5**

### **Election requirements**

Sec. 5. (a) Within ten (10) days after the board certifies to the court, the board shall fix the following:

(1) A convenient and suitable place for the election.

(2) The date for the election not less than fifteen (15) and not more than thirty (30) days after the last publication of notice.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. However, if the district contains freeholds too numerous for freeholder balloting at a single voting place while allowing each freeholder a reasonable time but not exceeding two (2) minutes to cast a ballot, the board shall fix and arrange for multiple voting places as appears necessary to accommodate the freeholders eligible to vote.

(c) Notice of the time, place, and purpose for the election must be given on the same day of each week for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the district.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-6**

#### **List of freeholders**

Sec. 6. (a) The board shall do the following:

(1) Prepare a list of the freeholders of the district.

(2) Have the county auditor certify the list.

(3) Make the list available for the inspection of any freeholder of the district.

(4) Place the list in the permanent files of the district at the conclusion of the election.

(b) A deficiency in the list or omission of the name of a freeholder does not void the election or the election's outcome.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-7**

#### **Ballots**

Sec. 7. The board shall prepare and furnish ballots in sufficient number in the following form:

"Shall the \_\_\_\_\_ Conservancy District be dissolved?"

[ ] Yes [ ] No

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-8**

#### **Assistant secretary and voting list**

Sec. 8. The board shall do the following:

(1) Appoint an assistant secretary.

(2) Provide a voting list at each voting place.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-9**

#### **Voting procedures**

Sec. 9. (a) Before the voting begins, the chairman of the board

shall appoint three (3) freeholders of the district as clerks to conduct the election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

- (1) a clerk finds a freeholder's name is omitted from the list; and
- (2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-10**

#### **Absentee ballot**

Sec. 10. A freeholder of the district may vote absentee by written ballot. A written ballot vote must be signed and mailed or delivered to the district office. Ballots voted by absentees are valid if delivered or received before the scheduled date of the election.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-11**

#### **Election duties of secretary and clerks**

Sec. 11. (a) The secretary of the district shall do the following:

- (1) Keep the ballots safe and secure until the end of the voting period.
- (2) At the end of the voting period present all ballots cast to the three (3) clerks.

(b) The clerks shall do the following:

- (1) Count the ballots.
- (2) Report the results of the election to the secretary in writing over the signature of each clerk.

(c) The secretary shall do the following:

- (1) Record the results in the records of the district.
- (2) Certify the results to the court as promptly as possible.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-12**

#### **Majority of votes**

Sec. 12. A majority of all votes cast determines the issue of dissolution of the district, as long as the total votes cast at least equals the number of freeholders petitioning for the election.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-16-13**

#### **Court ordering board to take steps to terminate district activities**

Sec. 13. If a majority favors dissolution of a district, the court shall, upon receiving the certification of the results, order the board to take the necessary steps to terminate all activities of the district other than those activities required to certify and collect assessments

or taxes to pay the following:

- (1) The remaining financial obligations of the district.
- (2) The expenses of liquidating the district's property and winding up the district's affairs.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-16-14**

##### **Election costs**

Sec. 14. Costs of the election, including legal fees approved by the court, shall be paid from district money.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-16-15**

##### **Court ordering final accounting and filing of records; discharging board**

Sec. 15. (a) When a district's financial obligations and the expenses of winding up the district's affairs are paid, the court shall order the board to do the following:

- (1) Make a final accounting to the court.
- (2) File all records of the district with the court.

(b) The court shall then discharge the board and decree that the district is dissolved.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-16.5**

### **Chapter 16.5. Dissolution of Smaller District and Assumption of Operations, Obligations, and Assets by Larger District**

#### **IC 14-33-16.5-1**

##### **Application**

Sec. 1. This chapter applies to any two (2) conservancy districts that:

- (1) are contiguous; and
- (2) share at least one (1) common purpose set forth in IC 14-33-1-1.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-2**

##### **Definitions**

Sec. 2. As used in this chapter:

- (1) "freeholder" means an owner of real property, as reflected in the real property tax records of the county auditor;
- (2) "larger district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the larger number of freeholders; and
- (3) "smaller district" means, of the two (2) districts referred to in section 1 of this chapter, the one (1) that has the smaller number of freeholders.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-3**

##### **Initiation of dissolution proceedings; petition**

Sec. 3. (a) The freeholders of a smaller district may initiate dissolution proceedings under this chapter by filing a petition with the county auditor of the county in which most of the smaller district's area is located. The petition must be signed by at least the lesser of:

- (1) fifty (50); or
- (2) five percent (5%);

of the smaller district's freeholders.

(b) A petition under subsection (a) may be circulated and presented in separate parts. All the parts of the petition constitute a single petition.

(c) The petitioning freeholders must sign the petition, showing:

- (1) the name and address of each petitioner; and
- (2) the date of the signature.

(d) A petition must state that the petitioners desire an election on the question of whether:

- (1) the smaller district will dissolve and become part of the larger district; and
- (2) the larger district will assume the smaller district's operation, obligations, and assets.

(e) A person who presents a petition from the smaller district's freeholders under this section to the county auditor must verify and

certify the signatures on the petition upon oath.  
*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-4**

##### **County auditor; certification of petition; board resolution**

Sec. 4. (a) Not later than thirty (30) days after a petition is filed with the county auditor under section 3 of this chapter, the county auditor shall:

- (1) prepare and certify a list of freeholders of the smaller district;
- (2) make the list available for inspection by any person; and
- (3) determine and certify whether the petition:
  - (A) was signed by the number of freeholders required under section 3(a) of this chapter; and
  - (B) otherwise meets the requirements of this chapter.

(b) A deficiency in the list of the smaller district's freeholders or an omission of the name of a freeholder does not void the election or the election's outcome.

(c) If the county auditor determines that a petition filed under section 3 of this chapter meets the requirements of this chapter, the auditor shall, not later than forty (40) days after receiving the petition, forward a notice to the board of directors of the larger district by personal delivery or by certified mail. The notice must:

- (1) inform the larger district that a petition was filed under section 3 of this chapter by the freeholders of the smaller district; and
- (2) ask if the larger district is willing and able to assume the smaller district's operation, obligations, and assets if the smaller district's freeholders vote to dissolve the smaller district.

(d) Not later than thirty (30) days after receiving the notice from the county auditor under subsection (c), the board of directors of the larger district may pass a resolution stating that:

- (1) the larger district is willing and able to assume the smaller district's operation, obligations, and assets; and
- (2) upon becoming part of the larger district, the freeholders of the smaller district will:
  - (A) become full and equal freeholders of the larger district; and
  - (B) pay the same special benefits taxes and user charges generally charged by the larger district.

(e) If the board of directors of the larger district passes a timely resolution under subsection (d):

- (1) the board of directors of the larger district must forward a true and accurate copy of the resolution to the county auditor by personal delivery or by certified mail not later than ten (10) business days after the board passes the resolution; and
- (2) the board of directors of the smaller district must hold a dissolution and assumption election of the smaller district's freeholders under this chapter.

(f) If the board of directors of the larger district:

(1) does not pass a timely resolution under subsection (d); or  
(2) passes a timely resolution under subsection (d), but does not  
timely forward a copy of the resolution under subsection (e)(1);  
the dissolution proceedings that began with the filing of a petition  
under section 3 of this chapter are ended.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-5**

##### **County auditor; notification of election**

Sec. 5. Not later than ten (10) days after the county auditor receives a resolution from the board of directors of the larger district under section 4 of this chapter, the county auditor shall, by personal delivery or by certified mail, notify the board of directors of the smaller district that the board of directors of the smaller district must hold the election referred to in section 4(e)(2) of this chapter.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-6**

##### **Election procedures**

Sec. 6. (a) Not later than ten (10) days after receipt of a notice under section 5 of this chapter, the board of directors of the smaller district shall fix the following:

(1) A convenient and suitable place for the smaller district's election.

(2) The date for the election that is at least sixty (60) days after the date on which the county auditor notifies the smaller district's board under section 5 of this chapter.

(b) The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. If the number of freeholders in the smaller district is too great for balloting at a single voting place while allowing each freeholder a reasonable time to cast a ballot, the board shall arrange for the number of voting places necessary to accommodate the freeholders eligible to vote.

(c) Notice of the date, time, place, and purpose of the election must be given for two (2) consecutive weeks in an English language newspaper of general circulation published in each county having land in the smaller district, with the last publication:

(1) not less than fifteen (15) days; and

(2) not more than thirty (30) days;

before the date of the election.

(d) The board of directors of the smaller district shall also cause individual notice of the election to be given to all the smaller district's freeholders by first class mail.

(e) The notice published under subsection (c) and the individual freeholder notice mailed under subsection (d) must be in the following form:

Notice of a Dissolution and Assumption Election

to the Freeholders of the \_\_\_\_\_

(insert smaller district) Conservancy District

1. You are a freeholder (i.e. a real property owner) of the

\_\_\_\_\_ (insert smaller district) Conservancy District. As a freeholder, you are one of the owners of the \_\_\_\_\_ (insert smaller district) Conservancy District.

2. A legally required number of the freeholders of the \_\_\_\_\_ (insert smaller district) Conservancy District has filed a petition with the \_\_\_\_\_ (insert county name) County Auditor requesting that the \_\_\_\_\_ (insert smaller district) Conservancy District be dissolved, and that the operation, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District be assumed by the \_\_\_\_\_ (insert larger district) Conservancy District.

3. The \_\_\_\_\_ (insert larger district) Conservancy District is contiguous to, has the same purpose as, and has a greater number of freeholders than the \_\_\_\_\_ (insert smaller district) Conservancy District.

4. The Board of Directors of the \_\_\_\_\_ (insert larger district) Conservancy District has passed a resolution stating:

A. That the \_\_\_\_\_ (insert larger district) Conservancy District is willing to assume the operation, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District; and

B. That upon becoming part of the \_\_\_\_\_ (insert larger district) Conservancy District, the freeholders of the \_\_\_\_\_ (insert smaller district) Conservancy District will become full and equal freeholders of the \_\_\_\_\_ (insert larger district) Conservancy District and be subject to and pay the same special benefits taxes and user charges generally charged by the (insert larger district) Conservancy District.

5. An election of the freeholders of the \_\_\_\_\_ (insert smaller district) Conservancy District is set for the day of \_\_\_\_\_, \_\_\_\_\_, from 9:00 a.m. to 9:00 p.m., at the following location(s): \_\_\_\_\_.

6. The question presented for the election is whether the \_\_\_\_\_ (insert smaller district) Conservancy District should be dissolved, and whether the \_\_\_\_\_ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District.

7. A majority of the votes cast at the election will determine the question of whether the \_\_\_\_\_ (insert smaller district) Conservancy District should be dissolved, and whether the \_\_\_\_\_ (insert larger district) Conservancy District should assume the operations, obligations, and assets of the \_\_\_\_\_ (insert smaller district) Conservancy District.

8. As a freeholder of the \_\_\_\_\_ (insert smaller district) Conservancy District, you are entitled to and encouraged to vote at the election.

/ss/ Board of Directors, \_\_\_\_\_  
(insert smaller district) Conservancy District

(f) If the board of directors of the smaller district fails to hold the election as required by this chapter, the county auditor of the county in which the smaller district's petition was filed shall:

- (1) conduct the election as required by this chapter; and
- (2) bill the board of directors of the smaller district for the county auditor's costs incurred for the election.

(g) The board of directors of the smaller district shall promptly pay a bill submitted to the smaller district under subsection (f).

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-7**

##### **Ballot requirements**

Sec. 7. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall prepare and furnish ballots in sufficient number in the following form:

"Shall the \_\_\_\_\_ (insert smaller district) Conservancy District be dissolved and its operations, obligations, and assets be assumed by the \_\_\_\_\_ (insert larger district) Conservancy District?

[ ] Yes [ ] No"

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-8**

##### **Assistant secretary; voting list**

Sec. 8. After receiving a notice under section 5 of this chapter, the board of directors of the smaller district shall do the following:

- (1) Appoint an assistant secretary.
- (2) Provide a voting list at each voting place.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-9**

##### **Clerks; list of freeholders**

Sec. 9. (a) Before the voting begins under this chapter, the board of directors of the smaller district shall appoint three (3) freeholders of the district as clerks to conduct the dissolution and assumption election.

(b) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of the district secretary.

(c) If:

- (1) a clerk finds a freeholder's name is omitted from the list; and
- (2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

*As added by P.L.189-2005, SEC.7.*

#### **IC 14-33-16.5-10**

##### **Assistant secretary and clerks of smaller district; duties**

Sec. 10. (a) After an election is held under this chapter, the

assistant secretary of the smaller district shall do the following:

- (1) Keep the ballots safe and secure until the end of the voting period.
  - (2) At the end of the voting period, present all ballots cast to the three (3) clerks.
  - (3) Record the election results in the records of the smaller district.
  - (4) Certify the results of the election to the county auditor and the circuit court having supervisory jurisdiction over the smaller district as promptly as possible.
- (b) The clerks of the smaller district shall do the following:
- (1) Count the ballots.
  - (2) Report the results of the election to the secretary in writing over the signature of each clerk.

*As added by P.L.189-2005, SEC.7.*

### **IC 14-33-16.5-11**

#### **Determination of election by majority vote**

Sec. 11. In an election held under this chapter, a majority of all votes cast by the freeholders of the smaller district determines the question of the dissolution of the smaller district and the larger district's assumption of the smaller district's operations, obligations, and assets.

*As added by P.L.189-2005, SEC.7. Amended by P.L.1-2006, SEC.232.*

### **IC 14-33-16.5-12**

#### **Election costs paid by smaller district**

Sec. 12. The costs of a smaller district's election held under this chapter shall be paid by the smaller district.

*As added by P.L.189-2005, SEC.7.*

### **IC 14-33-16.5-13**

#### **Board of smaller district; duties after election**

Sec. 13. (a) In an election held under this chapter, if a majority of the freeholders of the smaller district votes to dissolve the smaller district, not later than sixty (60) days after the election, as the final action of the board of directors of the smaller district, the board shall:

- (1) make a full and final accounting to the circuit court having supervisory jurisdiction over the smaller district; and
- (2) file all records of the smaller district with the court.

(b) If the smaller district's board of directors fails to timely comply with subsection (a), the circuit court having supervisory jurisdiction over the smaller district shall order the board to comply or suffer a finding of contempt of court.

(c) The larger district shall take custody and control of the smaller district's operations, obligations, and assets on the earlier of:

- (1) the date the smaller district's board of directors complies with subsection (a)(1); or
- (2) the sixtieth day after the election.

(d) The larger district is directly responsible for payment of the smaller district's bonds or notes outstanding upon the larger district taking custody and control of the smaller district's operations, obligations, and assets.

(e) When the smaller district's board of directors complies with subsection (a), the circuit court shall issue an order:

(1) dissolving the smaller district; and

(2) discharging the board of directors of the smaller district.

*As added by P.L.189-2005, SEC.7.*

**IC 14-33-17**  
**Chapter 17. Merger of Districts**

**IC 14-33-17-1**

**Application of chapter**

Sec. 1. This chapter applies to two (2) districts:

- (1) where at least part of the external boundaries of the two (2) districts coincide;
- (2) that are located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (3) where the territory of each district contains part of the same town.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-17-2**

**Filing petition**

Sec. 2. Freeholders residing in the two (2) districts who desire the merger of the districts must initiate proceedings by filing a petition in the office of the clerk of the circuit court for the county containing the most land in the proposed merged district.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-17-3**

**Necessary signatures**

Sec. 3. (a) A petition must be signed by not less than five percent (5%) of the freeholders owning land in each of the existing districts.

(b) The court shall, before conducting an election under section 6 of this chapter, determine whether the petition bears the necessary signatures. If the petition does not bear the necessary signatures, the court shall dismiss the petition. The court may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(c) IC 14-33-2-16(c) and IC 14-33-2-16(d) apply to the petition.  
*As added by P.L.1-1995, SEC.26.*

**IC 14-33-17-4**

**Required bond**

Sec. 4. (a) The petitioners must post a bond sufficient to pay the cost of notice and all costs of the court connected with the petition and election.

(b) If:

- (1) the court dismisses the petition; or
- (2) the majority of freeholders vote against merger;

the petitioners shall pay all costs associated with the proceedings and the election.

(c) If a merger does take place under this chapter, the costs associated with the proceedings and the election shall be paid out of the general money of the county where the court is located. The district shall repay the county from the first money collected from the

levy of a tax or the collection of an assessment.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-5**

##### **Petition requirements**

Sec. 5. (a) Except as provided in section 17 of this chapter:

- (1) IC 14-33-2-3(1);
- (2) IC 14-33-2-3(2);
- (3) IC 14-33-2-3(3);
- (4) IC 14-33-2-3(5);
- (5) IC 14-33-2-4; and
- (6) IC 14-33-2-6;

apply to the petition filed under section 2 of this chapter.

(b) The petition must also state that the petitioners desire an election in the districts on the question of merger.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-6**

##### **Fixing time, place, and date of election**

Sec. 6. Within ten (10) days after receiving a petition that has met the requirements of sections 3 through 5 of this chapter, the court shall fix a convenient place and time for the election within each district to determine if the districts should merge. The election must be held not less than thirty (30) days after the date the election is set.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-7**

##### **Notice**

Sec. 7. The petitioners shall give notice of the time, place, and purpose for the election as follows:

- (1) By publication on the same day of each week for two (2) consecutive weeks in an English language newspaper of general circulation published in the county.
- (2) By mail at least twenty (20) days before the date of the election, first class postage prepaid, to each freeholder who has not signed the petition and who owns land in the proposed district according to the records of the county auditor.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-8**

##### **List of freeholders**

Sec. 8. (a) The petitioners shall do the following:

- (1) Prepare a list of the freeholders of the district.
- (2) Have the county auditor do the following:
  - (A) Certify the list.
  - (B) Make the list available for the inspection of a freeholder of the district.
  - (C) Place the list in the permanent files of the district at the conclusion of the election.

(b) A deficiency in the list or omission of the name of the

freeholder does not void the election or the election's outcome.  
*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-9**

##### **Ballots**

Sec. 9. The court shall prepare and furnish ballots in sufficient number, in the following form:

"Shall \_\_\_\_\_ Conservancy District and \_\_\_\_\_ Conservancy District be merged to form a single district?"

Yes  No

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-10**

##### **Clerks, assistant secretary, and voting list**

Sec. 10. Before the voting begins, the court shall do the following:

(1) Appoint three (3) freeholders of the districts as clerks to conduct the election.

(2) Appoint an assistant secretary.

(3) Provide a voting list at each voting place.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-11**

##### **Hours of election; balloting places**

Sec. 11. The voting place must open at 9 a.m. local time and remain open for balloting continuously until 9 p.m. local time. However, if the district contains freeholds too numerous for freeholder balloting at a single voting place while allowing each freeholder a reasonable time but not exceeding two (2) minutes to cast a ballot, the court shall fix and arrange for multiple voting places as necessary to accommodate the freeholders eligible to vote.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-12**

##### **Voting procedures**

Sec. 12. (a) Before casting a vote, each freeholder must sign the list of freeholders opposite the freeholder's name in the presence of:

(1) the district secretary;

(2) the financial clerk; or

(3) a person designated by the district secretary or financial clerk.

(b) If:

(1) a clerk finds a freeholder's name is omitted from the list; and

(2) all three (3) clerks determine that the freeholder's name should be added to the list;

the clerks shall place the freeholder's name on the list and the freeholder may vote.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-13**

##### **Absentee ballot**

Sec. 13. A freeholder of the district may vote an absentee ballot.  
An absentee ballot:

- (1) must be signed;
- (2) must be mailed or delivered to the court; and
- (3) is valid if delivered or received before the scheduled date of the election.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-14**

##### **Election duties of secretary and clerks**

Sec. 14. (a) The secretary of each district shall do the following:

- (1) Keep the ballots safe and secure until the end of the voting period.
- (2) Present all ballots cast to the three (3) clerks.

(b) The clerks shall do the following:

- (1) Count the ballots.
- (2) Report the results of the election to the secretary in writing over the signature of the clerks.

(c) The secretary shall do the following:

- (1) Record the results in the records of the district.
- (2) Certify the results to the court as promptly as possible.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-15**

##### **Majority of votes**

Sec. 15. A majority of total votes cast in both districts determines the issue of merger of the districts.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-16**

##### **Appointment of initial board; requirements**

Sec. 16. (a) Notwithstanding IC 14-33-5-1 and IC 14-33-5-11, if a majority of those voting favors merger of the districts, the court shall, upon receiving certification of the results, appoint an initial board. The initial board consists of seven (7) members, with one (1) member from each of the areas of the new district established as provided in section 17 of this chapter.

(b) A director on the initial board:

- (1) must be:
  - (A) a freeholder of the area the director represents; or
  - (B) an officer or a nominee of a corporate freeholder of the area the director represents; and
- (2) does not have to be a petitioner to qualify for appointment.

(c) In selecting the initial board, the court shall appoint four (4) of the initial directors as follows:

- (1) Two (2) directors who have had prior experience as a director on the board of one (1) of the two (2) districts that were merged.
- (2) Two (2) directors who have had prior experience as a director on the board of the other district that was merged.

(d) The terms of the initial directors are as provided in IC 14-33-5-11.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-17**

##### **District areas; election of subsequent directors**

Sec. 17. (a) Notwithstanding:

- (1) section 5 of this chapter; and
- (2) IC 14-33-2-4;

the new district shall be composed of seven (7) areas established by the court. Each area must contain approximately the same number of freeholders.

(b) The board consists of seven (7) members, one (1) member from each of the areas of the new district.

(c) After the appointment of the initial directors, the subsequent directors shall be elected as provided in IC 14-33-5-2 through IC 14-33-5-9, except that freeholders may vote only for the nominees representing the area of the freeholder. In addition:

- (1) a director must be:
  - (A) a freeholder of the area the director represents; or
  - (B) an officer or a nominee of a corporate freeholder of the area the director represents; and
- (2) nominations for a director may only be made by the freeholders of the director's area.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-18**

##### **New district plan**

Sec. 18. The initial board of the merged district shall upon appointment prepare and submit a new district plan as provided in the initial formation of a single district. The same procedures provided for the initial submission of a district plan must be complied with for the submission of a district plan for a merged district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-19**

##### **Court orders following approval of new district plan**

Sec. 19. Effective upon approval of a new district plan, the court shall do the following:

- (1) Order the board of each of the merged districts dissolved.
- (2) Order the two (2) districts to merge into one (1) single district.
- (3) Order the transfer of all of the assets and obligations, including bonded indebtedness, of the merged districts to the new districts.
- (4) Designate the time of the annual meeting of the merged district, which must be before March 1 each year.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-17-20**

**Jurisdiction**

Sec. 20. The circuit court of the county in the merged district having the most land has exclusive jurisdiction over the merger and over all further hearings in connection with the district.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-17-21****Districts formed from merger**

Sec. 21. A district formed from the merger of two (2) districts as provided under:

(1) this chapter; or

(2) IC 13-3-3-96.5 (before its repeal);

is considered a district for purposes of this article.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-18**

### **Chapter 18. Subdistricts**

#### **IC 14-33-18-1**

##### **Establishment**

Sec. 1. A subdistrict of land in the district may be established by the same procedure by which the original district was established. The petition shall be addressed to the court having jurisdiction over the district. A subdistrict may be established for any purpose for which a district may be established, but a subdistrict may not be established for any of the same purposes for which the district has been established.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-18-2**

##### **Director**

Sec. 2. A director of the district may not also be a director of the subdistrict.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-18-3**

##### **Interference with district purpose**

Sec. 3. (a) The district plan under which the subdistrict operates may not interfere with the accomplishment of a purpose for which the district was established.

(b) If the board of the district determines that operations of the subdistrict interfere with the accomplishment of a purpose of the district, the board may petition the court to make necessary findings and issue necessary orders to the board of the subdistrict to stop the interference.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-18-4**

##### **Operation, powers, and duties**

Sec. 4. A subdistrict operates in the same manner as a district, and the board of a subdistrict has the same powers and duties.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-18-5**

##### **Resolution establishing subdistrict; procedures**

Sec. 5. (a) A subdistrict also may be established under this chapter for a purpose for which the district has been established if the board passes a resolution to that effect defining the territory of the subdistrict and each purpose. The resolution must be filed in the court having jurisdiction of the district.

(b) The court shall hold a hearing after ordering notice to be given as follows:

- (1) By publication at least thirty (30) days before the hearing at least one (1) time in one (1) newspaper of general circulation in each county having land in the district.

(2) By mail to each freeholder in the proposed subdistrict.

(c) If at the hearing a remonstrance against the establishment of the subdistrict is filed with the court signed by:

(1) thirty percent (30%) of the freeholders in the proposed subdistrict; or

(2) thirty percent (30%) of all freeholders in the district;

the court shall dismiss the resolution. IC 14-33-2-3 applies to the remonstrance.

(d) If the court at the hearing finds that the proposed subdistrict has a particular need for the accomplishment of the purpose proposed, the court shall establish the subdistrict for the purpose. After the court establishes the purpose, the purpose is not a purpose of the district.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-19**

### **Chapter 19. Levee Districts and Associations**

#### **IC 14-33-19-1**

##### **Applicability of chapter**

Sec. 1. This chapter applies to a levee district or levee association existing under:

- (1) Acts 1911, c.127;
- (2) Acts 1911, c.280;
- (3) Acts 1911, c.103;
- (4) Acts 1913, c.165;
- (5) Acts 1917, c.105;
- (6) Acts 1919, c.26;
- (7) Acts 1927, c.38;
- (8) Acts 1933, c.42;
- (9) Acts 1937, c.42;
- (10) Acts 1937, c.186;
- (11) Acts 1937, c.233;
- (12) Acts 1941, c.159;
- (13) Acts 1947, c.284;
- (14) Acts 1947, c.187;
- (15) Acts 1947, c.249;
- (16) Acts 1959, c.52; or
- (17) Acts 1959, c.374;

all of which were repealed by IC 19-3-2-106 (recodified as IC 13-2-19.5-9 before its repeal, and later recodified as IC 14-27-3-19).

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-2**

##### **Levee district or association becoming district**

Sec. 2. A levee district or levee association may become a district under this article in accord with this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-3**

##### **Procedures to become district**

Sec. 3. The elected levee committee of a levee district or board of directors of a levee association must do the following to become a district under this article:

- (1) Adopt a resolution to accept this article.
- (2) File a petition in court.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-4**

##### **Filing petition**

Sec. 4. A petition filed under section 3 of this chapter must be filed as follows:

- (1) For a levee district, in the court establishing the levee district.

(2) For an incorporated levee association formed under Acts 1913, c.165, in the circuit court of the county in which the principal offices of the incorporated levee association are located.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-5**

##### **Contents of petition**

Sec. 5. A petition filed under section 3 of this chapter must state the following:

- (1) Acceptance of this article.
- (2) The division of the district into areas, with the areas corresponding to the number of levee committee members or directors.
- (3) The number of and names of the elected levee committee members or directors.
- (4) The expiration dates of the terms of the committee members or directors.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-6**

##### **Court's duties upon receipt of petition; notice**

Sec. 6. (a) Upon receipt of a petition, the court shall do the following:

- (1) Set a date for a hearing.
- (2) Have a copy of the petition and notice of the time and place of the hearing given at least twenty (20) days before the hearing date as follows:
  - (A) By publication at least one (1) time in one (1) newspaper of general circulation in each county in which lies land affected by the levee district, levee association, or pending proceedings.
  - (B) By United States mail to each freeholder affected, postage prepaid, using the residence address shown on the record of transfer of the auditor of the counties involved.

(b) Proof of publication of the notice, verified by the publisher of each newspaper involved, shall be filed with the court on or before the date of hearing.

(c) The person mailing the notice to freeholders shall file an affidavit on or before the date of hearing showing the following:

- (1) The names of the persons to whom notice was sent.
- (2) The address to which the notice was sent.
- (3) The date on which the notice was mailed.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-7**

##### **Court's duties at hearing**

Sec. 7. At the hearing the court shall do the following:

- (1) Determine the areas into which the district will be divided.
- (2) Determine the date of the annual meeting of the district.

- (3) Extend the terms of the levee committee members or board of directors to the annual meeting date set by the court.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-19-8**

##### **Annual revenue for maintenance and operation**

Sec. 8. Notwithstanding other provisions of this article, a levee district or levee association that constructed a levee before March 10, 1967, shall raise the annual revenue for maintenance and operation by either of the following:

- (1) A combination of the following:

- (A) A special benefits tax.

- (B) A percentage assessment of the original assessments made and confirmed by the court in the original proceedings establishing and constructing the levee.

- (2) A percentage assessment of the original assessments.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-20**

### **Chapter 20. Water Supply Systems**

#### **IC 14-33-20-1**

##### **Applicability of chapter**

Sec. 1. (a) This chapter applies only to furnishing water supply for domestic, industrial, and public use.

(b) This chapter does not apply to the accomplishment of any other purpose:

- (1) for which a district has been established; or
- (2) that is added to the purposes of the district after establishment.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-2**

##### **"Commission" defined**

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-3**

##### **"Water facilities" and "water supply" defined**

Sec. 3. As used in this chapter, "water facilities" and "water supply" include the following:

- (1) Source of supply.
- (2) Treatment facilities.
- (3) Purifying and storage facilities.
- (4) Distribution systems.
- (5) Appurtenant equipment.
- (6) Materials and supplies.
- (7) Land, easements, and rights-of-way.
- (8) Buildings.
- (9) All other facilities for the administration, operation, and maintenance of the items described in subdivisions (1) through (8).

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-4**

##### **District electing to furnish water supply for domestic, industrial, and public use**

Sec. 4. (a) A district established for the purpose of furnishing water supply for domestic, industrial, and public use may elect to furnish water supply under this chapter if:

- (1) the district plan; or
- (2) a part of or an amendment to the district plan;

so states.

(b) A district that adds the purpose of furnishing water supply for domestic, industrial, and public use may elect in the manner provided by subsection (a) to furnish water supply under this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-5**

##### **District as legal entity**

Sec. 5. (a) A district electing to come under this chapter is considered, with regard to activities relating to furnishing water supply for domestic, industrial, and public use, to be a legal entity for the following purposes:

- (1) Contracting with individuals, associations, corporations, municipal corporations, conservancy districts, the state, and the United States for the acquisition of property.
- (2) The borrowing of money, including security for indebtedness so incurred.
- (3) The purchase and sale of water.

(b) A district:

- (1) may sue and be sued for the purposes described in subsection (a); and
- (2) has the rights and powers granted by this article to the extent consistent with this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-6**

##### **Territorial authority**

Sec. 6. An order of the court:

- (1) establishing a district; or
- (2) adding the purpose of furnishing water supply for domestic, industrial, and public use;

grants to the district territorial authority to provide the service of water supply within the district. Territorial authority includes the power to acquire, maintain, and operate a source of water outside the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-7**

##### **Supplying water outside territorial authority**

Sec. 7. If a district proposes in:

- (1) the district plan;
- (2) a part of or an amendment to the district plan; or
- (3) implementation of the district plan;

to provide water supply to users outside of the territory to which the district has been granted territorial authority, the district must petition the commission for territorial authority to serve the additional users.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-8**

##### **Commission setting hearing; notice**

Sec. 8. Upon the filing of a petition with the commission under section 7 of this chapter, the commission shall do the following:

- (1) Set the petition for public hearing.
- (2) Give notice of the time and place of the hearing by publication one (1) time in at least one (1) newspaper printed and published in each county in which the district proposes to

carry on operations relating to furnishing water supply. The publication must be at least ten (10) days before the date set for hearing. The district shall pay the cost of the publication at the time of filing the petition.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-9**

##### **Opposing petition**

Sec. 9. Any interested person may:

- (1) appear at the hearing under section 8 of this chapter either in person or by attorney; and
- (2) oppose the petition.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-10**

##### **Commission's findings after hearing**

Sec. 10. (a) The commission shall, after hearing the evidence introduced at the hearing under section 8 of this chapter, enter a finding that the convenience and necessity of the public proposed to be served in the area in which the additional users are located:

- (1) will; or
- (2) will not;

be served by the district.

(b) If the finding is in the affirmative, the commission shall enter an order granting territorial authority for the area. The district shall attach a copy of the order to:

- (1) the district plan; or
- (2) a part of, an amendment to, or the implementation of the district plan;

before the district plan is submitted for approval.

(c) If the finding is in the negative, the commission shall enter an order denying the approval to serve the additional users in the area.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-11**

##### **Municipality or public utility supplying water**

Sec. 11. If:

- (1) a district is established for the purpose of furnishing water supply for domestic, industrial, and public use or that purpose is added to a district; and
- (2) there is within the boundaries of the district a municipality or public utility providing water supply to part of the territory within the boundaries;

the order of the court establishing the district or adding that purpose is territorial authority only for that territory within the boundaries not served by the municipality or public utility.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-12**

##### **Supplying water to additional users outside territorial boundaries;**

**jurisdiction; expenses**

Sec. 12. (a) IC 14-33-4-2 does not apply to the addition of territory to a district in any county for the purpose of supplying water to additional users outside the territorial boundaries of the district. The commission has exclusive jurisdiction over the granting to a district of territorial authority to serve additional water users.

(b) For the purposes of:

- (1) granting territorial authority to a district to serve additional water users under subsection (a); and
  - (2) exercising the commission's jurisdiction for changes in the rates and charges of a district under section 14 of this chapter;
- the commission shall recoup its expenses under IC 8-1-2-70. For purposes of this subsection, a district that has the purpose of water supply and that operates under this chapter is considered a municipal utility.

*As added by P.L.1-1995, SEC.26.*

**IC 14-33-20-13****Reasonable and just charges for services; rates**

Sec. 13. (a) A district coming under this chapter shall furnish reasonably adequate services and facilities. The charge made by the district for a service provided or to be provided, either directly or indirectly, must be nondiscriminatory, reasonable, and just. Every discriminatory, unjust, or unreasonable charge for service is unlawful. A reasonable and just charge for services is a charge that produces sufficient revenue to pay all the legal and other necessary expenses incident to the operation of the water facilities:

- (1) including maintenance costs, operating charges, upkeep, repairs, and interest charges on bonds, notes, or other evidences of indebtedness;
- (2) providing a sinking fund for the liquidation of bonds, notes, or other evidence of indebtedness;
- (3) providing adequate money to be used as working capital, as well as money for making extensions and replacements; and
- (4) paying taxes, if any, that are assessed against the water facilities.

(b) The rates may include a reasonable profit on the investment, so that the charges produce an income sufficient to maintain the water facilities in a sound physical and financial condition to provide adequate and efficient service. A rate too low to meet these requirements is unlawful.

(c) A district and the district's board, officers, and employees:

- (1) shall enforce the collection of the rates and charges; and
- (2) if necessary, may discontinue water service to a water user for the nonpayment of rates and charges.

(d) A district shall make a charge against the property in the district for fire protection furnished by the water facilities, separate from rates and charges for water supplied to users. The receipts from fire protection charges are considered revenues of the water facilities.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-14**

##### **Schedule of rates and charges; regulation**

Sec. 14. A district coming under this chapter shall file the initial schedule of rates and charges to patrons of the district with the commission. If changes in rates and charges are necessary, the district is subject to the jurisdiction of the commission in the same manner as provided by statute for the regulation of rates and charges of municipal water utilities.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-15**

##### **"Net revenues" defined**

Sec. 15. (a) As used in this section, "net revenues" means gross revenues less the reasonable cost of operation and maintenance.

(b) A district coming under this chapter may pay the costs, including incidental expenses, of constructing or otherwise acquiring all the works of improvement necessary to furnish water supply for domestic, industrial, and public use by issuing bonds, notes, or other evidences of indebtedness to be payable from revenues in the manner provided by this article. The bonds, notes, or other evidences of indebtedness of the district for water purposes are payable solely from the net revenues of the water facilities. All bonds, notes, contracts, warrants, debentures, and pledges entered into by a district for the purposes of:

- (1) this chapter; or
- (2) IC 13-3-4 (before its repeal);

do not constitute an obligation payable from the collection of a special benefits tax.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-16**

##### **Resolution authorizing bonds, notes, or other evidences of indebtedness**

Sec. 16. All bonds, notes, or other evidences of indebtedness payable from revenues may be authorized only by resolution of the board. The resolution, as well as the bonds, notes, or other evidences of indebtedness issued under the resolution, is a contract with all holders of the bonds, notes, or other evidences of indebtedness.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-17**

##### **Requirements for bonds, notes, or other evidences of indebtedness**

Sec. 17. (a) All bonds, notes, or other evidences of indebtedness that are authorized by the resolution must be in one (1) or more series and may:

- (1) bear the date;
- (2) mature at a time not exceeding fifty (50) years from the date of issuance;
- (3) bear interest at any rate;
- (4) be in a denomination;

- (5) be in a form, either coupon or registered;
- (6) carry registration and conversion privileges;
- (7) be executed in the manner;
- (8) be payable in the medium of payment, at the place;
- (9) be subject to terms of redemption, with or without a premium;
- (10) be declared or become due before the maturity date;
- (11) provide for the replacement of mutilated, destroyed, stolen, or lost bonds, notes, or other evidences of indebtedness;
- (12) be authenticated in a manner and upon compliance with conditions; and
- (13) contain other terms and covenants;

that are provided by resolution of the board.

(b) Notwithstanding the form or tenor, and in the absence of an express recital on the face that the bond, note, or other evidence of indebtedness is nonnegotiable, the bonds, notes, or other evidences of indebtedness are negotiable instruments for all purposes.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-18**

##### **Execution of bonds, notes, or other evidences of indebtedness; valid and binding obligations**

Sec. 18. (a) The bonds, notes, or other evidences of indebtedness shall be executed in the name of the district by the chairman of the board and attested by the secretary. Interest coupons may be executed by placing the facsimile signature of the chairman on the coupons.

(b) The bonds, notes, or other evidences of indebtedness are valid and binding obligations of the district for all purposes provided by this chapter and in the resolution, even if before delivery any of the persons whose signatures appear on the bonds, notes, or other evidences of indebtedness have ceased to be officers of the district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-19**

##### **Validity of authorization and issuance of bonds, notes, or other evidences of indebtedness**

Sec. 19. The validity of the authorization and issuance of the bonds, notes, or other evidences of indebtedness is not dependent on or affected in any way by the following:

- (1) Proceedings taken for the improvement for which the bonds, notes, or other evidences of indebtedness are to be issued.
- (2) Contracts made in connection with the improvement.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-20**

##### **Recital of authority of bond, note, or other evidence of indebtedness**

Sec. 20. A resolution authorizing bonds, notes, or other evidences of indebtedness payable from revenues must provide that a bond, note, or other evidence of indebtedness payable from revenues

contain a recital that the bond, note, or other evidence of indebtedness is issued under this article or under IC 13-3-3 (before its repeal). A bond, note, or other evidence of indebtedness containing the recital under authority of such a resolution is conclusively considered:

- (1) to be valid; and
- (2) to have been issued in conformity with this article or IC 13-3 (before its repeal).

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-21**

##### **Sale of bonds, notes, or other evidences of indebtedness**

Sec. 21. The bonds, notes, or other evidences of indebtedness payable from revenues:

- (1) shall, except as provided in subdivision (4), be sold at public sale as provided by general statutes concerning the sale of bonds;
- (2) may be sold at different times or an entire issue or series may be sold at one (1) time;
- (3) may be sold:
  - (A) in part; or
  - (B) in part in installments at different times or at one (1) time; and
- (4) may be sold or issued to the United States or the state without a public offering.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-22**

##### **Bonds, notes, or other evidences of indebtedness equally and ratably secured by lien**

Sec. 22. All bonds, notes, or other evidences of indebtedness of the same issue shall be equally and ratably secured, without priority because of:

- (1) number or date of issue;
- (2) sale;
- (3) execution; or
- (4) delivery;

by a lien upon the revenues in accordance with this chapter and the resolution authorizing issuance.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-23**

##### **Constitutionally restricted bonds or debts not authorized**

Sec. 23. This chapter does not authorize the board to do anything that would result in the creation of an instrument that constitutes a bond or debt within the meaning of the constitutional restriction relating to:

- (1) the creation or incurring of a debt or indebtedness; or
- (2) the issuance of an instrument constituting a bond or debt.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-24**

##### **Restrictions on bonds, notes, or other evidences of indebtedness**

Sec. 24. (a) The bonds, notes, or other evidences of indebtedness, including interest, are not any of the following:

- (1) A debt of the district or the board.
- (2) A charge, lien, or encumbrance, legal or equitable, upon:
  - (A) property of the district; or
  - (B) income, receipts, or revenues of the district other than the revenues of the water facilities that have been pledged to payment.

(b) Every bond, note, or other evidence of indebtedness must recite in substance the following:

- (1) That the bond, note, or other evidence of indebtedness, including interest, is payable solely from the revenues pledged to payment.
- (2) That the board is not under an obligation to pay the bond, note, or other evidence of indebtedness except from those revenues.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-25**

##### **Bonds, notes, or other evidences of indebtedness issued for refunding other indebtedness**

Sec. 25. Bonds, notes, or other evidences of indebtedness may be issued for refunding outstanding bonds, notes, or other evidences of indebtedness of the district in the discretion of the board. However, refunding may not contradict the terms of a resolution that the board has passed authorizing the issuance of bonds, notes, or other evidence of indebtedness sought to be refunded.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-26**

##### **District borrowing money**

Sec. 26. (a) A district coming under this chapter may borrow money for a term not to exceed two (2) years, which may be renewed for a term of two (2) years, from a bank organized under state or federal statutes or from a state or federal agency in anticipation of the receipt of money from any source, including the following:

- (1) Grants and loans from state or federal agencies.
- (2) Money from the sale of bonds, notes, or other evidences of indebtedness proposed to be issued under this chapter.

(b) The district may pledge the money to be received to the repayment of the principal and interest of the borrowing.

(c) The interim financing may also be repaid from the sale of bonds, notes, or other evidences of indebtedness without designating the bonds, notes, or other evidences of indebtedness as refunding obligations. The proceeds of interim financing may be used in whole or part for the following:

- (1) The acquisition of real, personal, or mixed property, or options on real, personal, or mixed property.

(2) Services reasonably necessary to provide water supply for domestic, industrial, and public use.

(d) Interim financing may be negotiated and consummated directly between the district and the state or federal bank or state or federal agency without public offering. The district may make covenants to the lender and the lender has the rights and remedies that are authorized by this article.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-27**

##### **Tax exemptions**

Sec. 27. The:

- (1) bonds, notes, or other evidences of indebtedness;
- (2) proceeds from and the interest on the bonds, notes, or other evidences of indebtedness;
- (3) water property and facilities of the district; and
- (4) revenues received from the furnishing of water and providing fire protection;

are exempt from taxation by the state.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-28**

##### **Security of bonds, notes, or other evidences of indebtedness**

Sec. 28. (a) To adequately secure the payment of the bonds, notes, or other evidences of indebtedness, including interest, payable from revenues, the board and the board's officers, agents, and employees shall do the following:

- (1) Pay punctually the principal of every bond, note, or other evidence of indebtedness, including interest:
  - (A) on the date;
  - (B) at the place;
  - (C) in the manner; and
  - (D) out of the money mentioned in the bonds, notes, other evidences of indebtedness, and coupons;

in accordance with the resolution authorizing issuance.

(2) Preserve and protect the security of the bonds, notes, or other evidence of indebtedness and the rights of the holders, and warrant and defend those rights against all claims and demands of all persons.

(3) Hold in trust the revenues pledged to the payment of the bonds, notes, or other evidence of indebtedness for the benefit of the holders and apply those revenues:

- (A) only as provided by the resolution authorizing issuance;  
or
- (B) if the resolution is modified in the manner provided in:
  - (i) the bonds, notes, or other evidence of indebtedness; or
  - (ii) this chapter;

only as provided in the resolution as modified.

(4) Keep proper books of record and accounts of the water facilities, separate from all other records and accounts:

(A) in which complete and correct entries shall be made of all transactions relating to the water facilities and any part of the water facilities for which the revenues are pledged; and (B) that, together with all other books and papers of the board, are at all times subject to the inspection of the holder of the bonds, notes, or other evidences of indebtedness then outstanding or a representative of the holder authorized in writing.

(b) This section does not require the board to expend money other than revenues received or receivable from the water facilities.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-20-29**

#### **Provisions compromising parts of bonds, notes, or evidences of indebtedness**

Sec. 29. (a) The board may insert, in a resolution authorizing the issuance of bonds, notes, or other evidences of indebtedness payable from revenues, provisions that then comprise a part of the contract with the holders of the bonds, notes, or other evidences of indebtedness concerning the following:

(1) Limitations on the purpose to which the proceeds of sale of an issue of bonds, notes, or other evidences of indebtedness payable from revenues issued to finance the improving of the water facilities may be applied.

(2) Limitations on the issuance of additional bonds, notes, or other obligations to finance the improving of the water facilities and on the lien of the water facilities.

(3) Limitations on the right of the board to restrict and regulate the use of the water facilities.

(4) The amount and kind of insurance to be maintained on the water facilities and the use and disposition of insurance money.

(5) Pledging all or a part of the revenues of the water facilities to which the board's right exists.

(6) Covenanting against pledging all or a part of revenues of the water facilities to which the board's right exists.

(7) Events of default and terms and conditions upon which any of the bonds, notes, or other evidences of indebtedness become or may be declared due before maturity, including the terms and conditions upon which the declaration and the consequences of the declaration may be waived.

(8) The rights, liabilities, powers, and duties arising if the board breaches any covenants, conditions, or obligations.

(9) A procedure by which the terms of:

(A) a resolution authorizing bonds, notes, or other evidences of indebtedness payable from revenues; or

(B) any other contract with the holders;

may be amended or abrogated, including the amount of bonds, notes, or other evidences of indebtedness to which the holders must consent and the manner in which the consent may be given.

(10) The execution of all instruments necessary or convenient in the following:

(A) The exercise of the powers granted by this chapter.

(B) The performance of the duties of the board and the board's officers, agents, and employees.

(11) Refraining from pledging or in any manner claiming or taking the benefit or advantage of a stay or extension statute that affects the duties or covenants of the board in relation to the following:

(A) The bonds, notes, or other evidences of indebtedness.

(B) The performance of or the lien of the bonds, notes, or other evidences of indebtedness.

(12) The:

(A) purchase out of any money available for the purchase, including the proceeds of bonds, notes, or other evidences of indebtedness payable from revenues, of outstanding bonds, notes, or other evidences of indebtedness; and

(B) price at which and the manner in which the purchases may be made.

(13) Other acts that:

(A) are desirable to secure the bonds, notes, or other evidences of indebtedness; or

(B) may tend to make the bonds, notes, or other evidences of indebtedness more marketable.

(b) This section does not authorize the board to:

(1) make any covenants; or

(2) perform any act;

requiring the expenditure of money other than revenues received or receivable from the water facilities.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-20-30**

#### **Application for appointment of receiver of water facilities**

Sec. 30. If:

(1) the:

(A) board defaults in the payment of the principal or interest on any of the bonds, notes, or other evidences of indebtedness payable from revenues after the bonds, notes, or other evidences of indebtedness have become due, whether at maturity or upon call for redemption; and

(B) default continues for a period of thirty (30) days; or

(2) the board or the board's officers, agents, or employees:

(A) fail or refuse to comply with this chapter; or

(B) default in an agreement made with the holders of the bonds, notes, or other evidences of indebtedness;

any holder or a trustee of a holder may apply to the circuit court with jurisdiction in the county in which the district is primarily situated for the appointment of a receiver of the water facilities, whether or not the holder or trustee is seeking or has sought to enforce any other right or remedy in connection with the bonds, notes, or other

evidences of indebtedness.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-31**

##### **Appointment of receiver of water facilities**

Sec. 31. Upon an application the circuit court:

- (1) may appoint; and
- (2) shall appoint, if the application is made by the holders or a trustee of the holders of twenty-five percent (25%) in principal amount of the bonds, notes, or other evidences of indebtedness then outstanding;

a receiver of the water facilities.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-32**

##### **Receiver taking possession of water facilities**

Sec. 32. A receiver appointed under this chapter:

- (1) shall directly or by the receiver's agents and attorneys enter upon and take possession of the water facilities for which the revenues are pledged; and
- (2) may exclude:
  - (A) the board;
  - (B) the board's officers, agents, and employees; and
  - (C) all persons claiming under the board or the board's officers, agents, or employees.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-33**

##### **Duties of receiver**

Sec. 33. A receiver appointed under this chapter shall do the following:

- (1) Have, hold, use, operate, manage, and control the facilities.
- (2) In the name of the board or otherwise, exercise all rights and powers of the board with respect to the water facilities as the board might do.
- (3) Maintain, restore, and insure the water facilities and periodically make all proper repairs to the facilities.
- (4) Subject to the jurisdiction of the commission, establish, levy, maintain, and collect fees, tolls, rentals, and other charges in connection with the water facilities as are proper and reasonable.
- (5) Collect and receive all revenues, deposit the revenues in a separate account, and apply the revenues collected and received in the manner that the court directs.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-34**

##### **Surrender of possession of water facilities by receiver**

Sec. 34. (a) Whenever:

- (1) all that is due:

(A) upon the bonds, notes, or other evidences of indebtedness payable from revenues, including interest; and  
(B) upon other notes, bonds, or other obligations, including interest, having a charge, lien, or encumbrance on the revenues of the water facilities;

under the terms of covenants or agreements with the holders have been paid or deposited as provided; and

(2) all defaults have been cured;

the court may, after notice and hearing that the court considers reasonable and proper, direct the receiver to surrender possession of the facilities to the board.

(b) The same right of the holders of the bonds, notes, or other evidences of indebtedness to secure the appointment of a receiver exists upon a subsequent default as provided in this chapter.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-20-35**

#### **Court supervision of receiver**

Sec. 35. (a) A receiver appointed under this chapter:

(1) shall, in the performance of the powers conferred upon the receiver, act under the supervision of the court making the appointment;

(2) is at all times subject to the orders of the court; and

(3) may be removed by the court.

(b) The court may enter other orders that the court considers appropriate for the exercise by the receiver of functions specifically set forth in this chapter.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-20-36**

#### **Protection of holders or trustees**

Sec. 36. Subject to contractual limitations binding upon the holders or trustees for the holders of an issue of bonds, notes, or other evidences of indebtedness payable from revenues, including restrictions on the exercise of a remedy to a specified proportion of holders, a holder or trustee of bonds, notes, or other evidences of indebtedness may, for the equal benefit and protection of all holders similarly situated, do the following:

(1) By mandamus or other action:

(A) enforce the rights of the holder or trustee against the board and the board's officers, agents, and employees; and

(B) require the board or officers, agents, or employees to perform:

(i) duties and obligations under this chapter; and

(ii) contracts with the holders.

(2) By action require the board to account as if the board was the trustee of an express trust.

(3) By action enjoin any acts or things that:

(A) are unlawful; or

(B) in violation of the rights of the holders.

- (4) Bring suit upon the bonds, notes, or other evidences of indebtedness.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-37**

##### **Remedies**

Sec. 37. (a) A remedy conferred by this chapter upon a holder or trustee for a holder of bonds, notes, or other evidences of indebtedness payable from revenues:

- (1) is in addition to every other remedy; and
- (2) may be exercised without exhausting and without regard to any other remedy conferred by:
  - (A) this chapter; or
  - (B) any other statute.

(b) A waiver of a default or breach of duty or contract, whether by a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness payable from revenues, does not do any of the following:

- (1) Extend to or affect a subsequent default or breach of duty or contract.
- (2) Impair any rights or remedies.

(c) A delay or an omission of a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness does not do any of the following:

- (1) Extend to or affect a subsequent default or breach of duty or contract.
- (2) Impair any rights or remedies.

(d) A delay or an omission of a holder or a trustee for a holder of bonds, notes, or other evidences of indebtedness in exercising a right or power accruing upon default:

- (1) does not impair a right or power; and
- (2) may not be construed to be a waiver of the default or acquiescence in the default.

(e) Every substantive right and every remedy conferred upon the holders of bonds, notes, or other evidences of indebtedness payable from revenues may be enforced and exercised periodically and as often as is expedient. If action to enforce a right or exercise a remedy:

- (1) is brought and then discontinued; or
- (2) is determined adversely to the holder or trustee;

the board and the holder or trustee shall be restored to their former positions as if an action had not been brought.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-38**

##### **Discharge of indebtedness**

Sec. 38. (a) Notwithstanding any other provision of this chapter, a district may do the following:

- (1) Borrow money from the state in accordance with other statutes.
- (2) Evidence the indebtedness upon terms and conditions that

are provided in the statutes or that the state requires.

(b) A district may:

(1) pay and discharge the indebtedness from the proceeds of bonds, notes, or other evidences of indebtedness issued under:

(A) this chapter; or

(B) IC 13-3-4 (before its repeal); or

(2) refund the indebtedness to the state;

in accordance with this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-20-39**

##### **Liberal construction of chapter**

Sec. 39. This chapter shall be liberally construed to facilitate the financing of water supply systems of districts.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-21**

### **Chapter 21. Cumulative Improvement Fund**

#### **IC 14-33-21-1**

##### **"Fund" defined**

Sec. 1. As used in this chapter, "fund" refers to a cumulative improvement fund established under this chapter.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-21-2**

##### **Purpose of fund**

Sec. 2. A district may establish a cumulative improvement fund under IC 6-1.1-41 to provide money for the construction, additional construction, or repair of the works of improvement the district:

- (1) is authorized to construct; and
- (2) states in the district plan, or part of or amendment to the plan, is a purpose of the fund.

*As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.14.*

#### **IC 14-33-21-3**

##### **Establishment of fund**

Sec. 3. (a) The board of a district that determines to establish a fund shall state this determination in the district plan or in any part or amendment to the plan. Notice to this effect shall be made a part of all notices concerning approval of the district plan or a part of or amendment to the plan, including implementation of the plan. The plan must specify the:

- (1) works of improvement;
- (2) additions to the works of improvement; or
- (3) repair of the works of improvement;

that are to be financed by the fund.

(b) When:

- (1) the district plan;
- (2) part of the district plan; or
- (3) an amendment to the district plan;

is approved by the court having jurisdiction of the district, the fund is established.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-21-4**

##### **Financing the fund**

Sec. 4. (a) To provide money for the fund, the board may place in the fund the following:

- (1) Gifts or grants from a person or state or federal agency.
- (2) Receipts of revenue from the sale of services or property produced incident to the accomplishment of the purpose for which the district is organized.
- (3) Any other form of miscellaneous receipt, including tap-in fees and connection fees.
- (4) Levy of a special benefits tax in accordance with sections 5

through 10 of this chapter.

(5) Collection of the exceptional benefits assessments or installments of the assessments, but only in accordance with section 11 of this chapter.

(b) The board shall state in the district plan or part of or amendment to the plan the source or combination of sources that will finance the fund.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-21-5**

##### **Special benefits tax**

Sec. 5. The board may levy a special benefits tax in compliance with IC 6-1.1-41 in an amount not to exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of real property in the district, except the property that is exempt under IC 14-33-7-4. The board shall file with the district plan or part of or amendment to the plan:

(1) the approval of the department of local government finance; and

(2) any action taken to reduce or rescind the tax levy.

*As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.15; P.L.6-1997, SEC.161; P.L.90-2002, SEC.377.*

#### **IC 14-33-21-6**

##### **Repealed**

*(Repealed by P.L.17-1995, SEC.45.)*

#### **IC 14-33-21-7**

##### **Repealed**

*(Repealed by P.L.17-1995, SEC.45.)*

#### **IC 14-33-21-8**

##### **Repealed**

*(Repealed by P.L.17-1995, SEC.45.)*

#### **IC 14-33-21-9**

##### **Approval of proposal**

Sec. 9. The approval of the department of local government finance:

(1) does not have to be filed with the district plan or part of or amendment to the plan at the time of the submission to the commission; and

(2) only has to be filed with the court having jurisdiction of the district.

*As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.16; P.L.90-2002, SEC.378.*

#### **IC 14-33-21-10**

##### **Reduction or rescission of tax levy by amendment**

Sec. 10. A tax levy under section 5 of this chapter may be reduced

or rescinded by an approved amendment to the district plan.  
*As added by P.L.1-1995, SEC.26. Amended by P.L.17-1995, SEC.17.*

#### **IC 14-33-21-11**

##### **Exceptional benefits assessments**

Sec. 11. (a) If the board determines to collect exceptional benefit assessments or installments of the assessments to provide for the fund in whole or in part, the board shall file with the district plan or part of or amendment to the plan the description of the land that the board has determined to be exceptionally benefited by the:

- (1) works of improvement;
- (2) addition to the works of improvement; or
- (3) repair of the works of improvement.

(b) The board shall have written notice mailed first class postage prepaid to the owners of record of the land to the effect that the financing of the fund has been determined. The notice must state the time and place of the court hearing on the determination.

(c) Notwithstanding this section:

- (1) the determination by the board of the land to be exceptionally benefited; and
- (2) the notice on the determination;

does not bind the determination with regard to the existence and amount of exceptional benefits of appraisers appointed under IC 14-33-8.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-21-12**

##### **Excess money**

Sec. 12. If:

- (1) there is a savings resulting from the cost of the works of improvement that are provided in the district plan, including the necessary engineering, legal, and administrative fees, being less than the proceeds of a bond issue or other borrowing to pay the costs;
- (2) the district plan is amended to provide that the excess money may be placed in the fund for further necessary works of improvement or additions to those works constructed with those proceeds; and
- (3) the use of the excess money is not restricted by the terms of the bond issue or other borrowing;

the excess money may be placed in the fund for the purposes described in subdivision (2).

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-21-13**

*(Repealed by P.L.17-1995, SEC.45.)*

#### **IC 14-33-21-14**

##### **Discharge of obligation**

Sec. 14. If a federal or state agency, according to statute or

contractual obligation, demands immediate or prompt action by the district in construction of, adding to, or repairing works of improvement, the district:

(1) may not defend that not enough money for the work has accumulated in the fund; and

(2) shall use the accumulation of money in the fund, including the proceeds of:

(A) borrowing;

(B) the collection of tax or assessments; or

(C) both borrowing and the collection of tax or assessments; to discharge the obligation.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-22**

### **Chapter 22. Rates or Charges for Sewerage System Service in Marion County**

#### **IC 14-33-22-1**

##### **Application of chapter**

Sec. 1. This chapter applies only to a district located in whole or in part in a county having a consolidated city.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-2**

##### **"Sewage" defined**

Sec. 2. As used in this chapter, "sewage" means the water carried wastes:

- (1) created in; and
- (2) carried or to be carried away from;

residences, hotels, schools, hospitals, industrial establishments, and other private or public buildings.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-3**

##### **"Sewerage system" defined**

Sec. 3. (a) As used in this chapter, "sewerage system" means plants, works, systems, facilities, or properties used or having the capacity for use in connection with the:

- (1) collection;
- (2) carrying away;
- (3) treating;
- (4) neutralizing;
- (5) stabilizing; or
- (6) disposing;

of sewage, industrial waste, or other wastes and any integral part of the wastes.

(b) The term includes the following:

- (1) Disposal fields, lagoons, pumping stations, drainage ditches, surface water intercepting sewers, lateral sewers, force mains, pipes, pipelines, conduits, equipments, and appurtenances.
- (2) All properties, rights, easements, and franchises relating to the system considered necessary or convenient by the board.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-4**

##### **"User" defined**

Sec. 4. As used in this chapter, "user" means a person or governmental entity that is the owner or occupant of real property, a part of which is connected to a sewerage system operated by a district.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-5**

### **"Works" defined**

Sec. 5. As used in this chapter, "works" means a sewage treatment plant, intercepting sewers, main sewers, submain sewers, local and lateral sewers, outfall sewers, force mains, pumping stations, ejector stations, and other appurtenances that are:

- (1) necessary or useful and convenient for the collection, treatment, purification, and disposal in a sanitary manner of the liquid and solid waste, sewage, sludge, night soil, and industrial waste; and
- (2) owned, operated, and maintained under the control of a board.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-22-6**

#### **Request for assessment**

Sec. 6. A user, all or a part of whose real property is subject to no tax other than the special benefits tax imposed under this article, may file with the county assessor and the board a request for assessment of the user's real property under this chapter. A request for a change in assessment must be filed before November 2 of the year preceding the March 1 assessment date for which the change in assessment is requested. Every request applies only to the following:

- (1) Real property specified in the request and subject to no tax other than the special benefits tax imposed under this article.
- (2) The past year specified in the request for which assessment is requested under this chapter and all future years until further notice.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-22-7**

#### **Assessment of property; calculation of tax rate**

Sec. 7. For each assessment date to which a request filed under section 6 of this chapter applies, the county assessor shall assess the real property specified in the request at an amount that, when multiplied by the tax rate for the district for the taxes due and payable in the year of the assessment date, equals the just and equitable rate to the user as determined by the board as of the most recent December 1 under section 11 of this chapter.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-22-8**

#### **Schedule of just and equitable rates; applicability**

Sec. 8. (a) The board shall establish a schedule of just and equitable rates or charges for the use of and the service provided by the works to be paid by a user who:

- (1) owns or occupies real property that is partially or entirely exempt from general taxation and:
  - (A) is connected with and uses the works by or through any part of the sewerage system; or
  - (B) that in any way uses or is served by the works; and

(2) files a request for determination as provided in section 6 of this chapter.

(b) The board may change the schedule periodically.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-9**

##### **Hearing to establish or change schedule**

Sec. 9. (a) A schedule may be established or changed only after a public hearing at which:

- (1) all persons using the works or owning real property served or to be served by the works; and
- (2) other interested persons;

have an opportunity to be heard concerning the proposed schedule.

(b) After adoption of a resolution fixing the schedule and before the resolution is put into effect, notice of the hearing shall be given by one (1) publication in a newspaper having general circulation in the district at least ten (10) days before the date fixed in the notice for the hearing. The hearing may be adjourned as needed.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-10**

##### **Resolution establishing schedule; changes**

Sec. 10. After a hearing held under section 9 of this chapter, the resolution establishing the schedule, either as originally passed or as modified and amended, shall be passed and put into effect. A copy of the schedule must be kept on file in the office of the board and must be open to inspection to all interested parties. A change or readjustment of the schedule may be made at any time in the same manner as the schedule was originally established.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-11**

##### **Fixing or changing just and equitable rate**

Sec. 11. (a) The board:

- (1) shall, before December 2 of the year in which a request is filed, fix the just and equitable rate for each user filing a request under section 6 of this chapter according to the schedule adopted; and
- (2) may change the rate prospectively before December 2 of a future year to reflect changes in the user's use of the sewerage system.

(b) The board shall promptly notify:

- (1) the county assessor; and
- (2) the affected user;

of the rate as originally fixed and as changed periodically.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-22-12**

##### **Basis of rate schedule**

Sec. 12. The schedule of rates or charges for the treatment and

disposal of sewage may be fixed and determined by the board on the basis of any of the following:

- (1) A flat charge for each sewer connection.
- (2) The amount of water used on the premises and discharged into the sewerage system.
- (3) The number and size of water outlets on the premises.
- (4) The amount, strength, and character of sewage discharged into the sewers.
- (5) The size of sewer connections.
- (6) Any combination of these factors or other factors.

*As added by P.L.1-1995, SEC.26.*

### **IC 14-33-22-13**

#### **Fraction of property exempt**

Sec. 13. (a) If only a part of:

- (1) a tract or lot of land; or
- (2) a building;

connected to the sewerage system is exempt from general taxation, the rates and charges established under this chapter shall be reduced by a fraction.

(b) The fraction to be used under subsection (a) is established by using:

- (1) the assessed valuation of the part subject to tax as the numerator; and
- (2) the total assessed value as the denominator.

*As added by P.L.1-1995, SEC.26.*

## **IC 14-33-23**

### **Chapter 23. General Provisions**

#### **IC 14-33-23-1**

##### **Entry onto land**

Sec. 1. (a) The following persons may enter land in the district and other land near the district as is necessary for district purposes:

- (1) The board of directors.
- (2) The board of appraisers.
- (3) The staffs of both boards.
- (4) All other persons employed or contracted with.

(b) In exercising the right granted by subsection (a), all reasonable effort must be made to notify the freeholder or tenant before entry.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-23-2**

##### **County officers performing duties to carry out article**

Sec. 2. The county auditor, county treasurer, and other officers of the county shall take all proper steps to:

- (1) collect and transmit money; and
- (2) perform other duties;

necessary to carry out this article.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-23-3**

##### **Public utility providing water service**

Sec. 3. (a) This section applies to a district established for the purpose of providing water supply, including treatment and distribution for domestic, industrial, and public use.

(b) A public utility engaged in the production, transmission, or distribution of water may:

- (1) initiate water service; or
- (2) expand the public utility's water service area;

within the boundaries of a district described in subsection (a) if the public utility has received an order from the Indiana utility regulatory commission, after notice and hearing, that public convenience and necessity requires the additional service.

(c) For the purposes of this section, the area of a district includes the additional area in which the district may serve users under IC 14-33-20.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-23-4**

##### **Purchase of sewage disposal works or storm drainage system by municipality**

Sec. 4. (a) This section applies to:

- (1) a sewer;
- (2) a sewage disposal plant or installation; or
- (3) a storm water drain;

that is installed by a district in and serves an area that subsequently

comes within the corporate limits of a municipality that is not a part of the district.

(b) The municipality may purchase that part of the sewage disposal works or storm drainage system with approval of the court and agreement with the district. The district shall protect the district's own operations and obligations.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-23-5**

##### **Water line or water supply installation becoming property of municipality**

Sec. 5. (a) This section applies to a water line or water supply installation installed by a district serving an area that subsequently comes within the corporate limits of a municipality that:

(1) is not a part of the district; and

(2) owns and operates a waterworks serving the municipality.

(b) The water line or water supply installation may become the property of the municipality at the option of the municipality, with agreement of the district and approval of the court.

(c) The municipality must reimburse the district at a figure equaling the district's verified cost. If the municipality and the district fail to agree upon the compensation, the municipality and district shall submit the matter to the Indiana utility regulatory commission for determination. The district shall protect the district's own operations and obligations.

*As added by P.L.1-1995, SEC.26.*

#### **IC 14-33-23-6**

##### **Liberal construction of article**

Sec. 6. (a) This article shall be liberally construed to accomplish the purpose of creating districts by which local water management problems can best be solved.

(b) Failure of notice, duly ordered, does not void a proceeding provided for in this article that is otherwise valid.

*As added by P.L.1-1995, SEC.26.*