

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.